

# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-FOURTH LEGISLATURE**

Regular Sixty-Day Session, 2019

First Extraordinary Session, 2019

Second Extraordinary Session, 2019

**VOLUME I**



**NOTE:** The first volume of this 4-volume Official Senate Journal starts with proceedings proper of the First Regular Session of the Eighty-Fourth Legislature from January 9, 2019, to March 9, 2019, ending with page 3538 of the Regular Session.

The Index of the Official Journal and the proceedings of the First Extraordinary and Second Extraordinary Sessions of 2019 are shown in Volume 4.



# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-FOURTH LEGISLATURE**

Regular Sixty-Day Session, 2019



NOTE: The First Regular Session of the Eighty-Fourth Legislature convened on January 9, 2019, and concluded the sixty-day constitutional session with final adjournment at midnight, March 9, 2019.

This session 1,823 bills were introduced in the two houses.

Members of the Senate, officers, and standing committee membership lists precede the Official Regular Session Journal and are shown hereinafter.

PUBLISHED UNDER THE DIRECTION OF  
LEE CASSIS, *Senate Clerk*

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**STAFF**

Kristin Canterbury, *Assistant Clerk*

Lora Thompson, *Chief Desk Clerk*

Lori Nichols, *Journal Clerk*

Xris Hess, *Bill Clerk*

SENATE OF WEST VIRGINIA  
MEMBERS, OFFICERS, AND STANDING COMMITTEES

REGULAR SESSION, 2019

OFFICERS

*President:* Mitch Carmichael, (R), Ripley  
*President pro Tempore:* Donna J. Boley, (R), St. Marys  
*Clerk:* Lee Cassis, Charleston  
*Sergeant at Arms:* Joseph A. Freedman, Charleston  
*Doorkeeper:* Jeffrey L. Branham, Cross Lanes

District	Name	Address
First .....	*William J. Ihlenfeld, (D) .....	Wheeling
	Ryan W. Weld, (R) .....	Wellsburg
Second.....	*Charles H. Clements, (R) .....	New Martinsville
	Michael J. Maroney, (R) .....	Glen Dale
Third.....	*Michael T. Azinger, (R) .....	Vienna
	Donna J. Boley, (R) .....	St. Marys
Fourth.....	Mitch Carmichael, (R) .....	Ripley
	*Eric J. Tarr, (R) .....	Scott Depot
Fifth.....	Robert H. Plymale, (D).....	Huntington
	*Michael A. Woelfel, (D).....	Huntington
Sixth .....	*Mark R. Maynard, (R).....	Genoa
	Chandler Swope, (R) .....	Bluefield
Seventh.....	<sup>1</sup> Paul Hardesty, (D) .....	Holden
	*Ron D. Stollings, (D).....	Madison
Eighth.....	Glenn D. Jeffries, (D).....	Red House
	*Richard D. Lindsay II, (D) .....	Charleston
Ninth.....	Sue Cline, (R) .....	Brenton
	*Rollan A. Roberts, (R).....	Beaver
Tenth .....	*Stephen Baldwin, (D).....	Ronceverte
	Kenny Mann, (R).....	Ballard
Eleventh.....	Gregory L. Boso, (R).....	Summersville
	*Bill Hamilton, (R) .....	Buckhannon
Twelfth.....	Douglas E. Facemire, (D) .....	Sutton
	*Michael J. Romano, (D) .....	Clarksburg
Thirteenth .....	*Robert D. Beach, (D).....	Morgantown
	Roman W. Prezioso, Jr., (D).....	Fairmont
Fourteenth .....	Randy E. Smith, (R) .....	Davis
	*Dave Sypolt, (R).....	Kingwood
Fifteenth .....	Craig Blair, (R).....	Martinsburg
	*Charles S. Trump IV, (R) .....	Berkeley Springs
Sixteenth.....	Patricia Puertas Rucker, (R).....	Harpers Ferry
	*John R. Unger II, (D) .....	Martinsburg
Seventeenth .....	Corey Palumbo, (D).....	Charleston
	*Tom Takubo, (R).....	South Charleston

\* Elected in 2018 to full four-year term.

<sup>1</sup> Appointed January 17, 2019, to unexpired term of Richard N. Ojeda II, who resigned January 14, 2019.

Democrats .....	14
Republicans .....	20
Total .....	34

# SENATE COMMITTEES

## STANDING COMMITTEES OF THE SENATE

2019

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### AGRICULTURE AND RURAL DEVELOPMENT

Senators Sypolt (*Chair*), Mann (*Vice Chair*), Clements, Cline, Mannard, Smith, Baldwin, Beach, Hardesty, and Woelfel.

### BANKING AND INSURANCE

Senators Azinger (*Chair*), Clements (*Vice Chair*), Blair, Hamilton, Rucker, Swope, Sypolt, Tarr, Weld, Facemire, Jeffries, Palumbo, Prezioso, and Romano.

### CONFIRMATIONS

Senators Boley (*Chair*), Takubo (*Vice Chair*), Azinger, Blair, Boso, Weld, Palumbo, Plymale, and Prezioso.

### ECONOMIC DEVELOPMENT

Senators Mannard (*Chair*), Swope (*Vice Chair*), Cline, Hamilton, Mann, Roberts, Tarr, Baldwin, Ihlenfeld, Jeffries, Romano, Stollings, and Woelfel.

### EDUCATION

Senators Rucker (*Chair*), Blair (*Vice Chair*), Azinger, Cline, Hamilton, Mann, Roberts, Trump, Baldwin, Beach, Plymale, Romano, Stollings, and Unger.

### ENERGY, INDUSTRY, AND MINING

Senators Smith (*Chair*), Sypolt (*Vice Chair*), Boley, Clements, Cline, Hamilton, Mann, Swope, Facemire, Ihlenfeld, Jeffries, Lindsey, and Woelfel.

### ENROLLED BILLS

Senators Mannard (*Chair*), Roberts (*Vice Chair*), Tarr, Lindsey, and Woelfel.

## SENATE COMMITTEES

### FINANCE

Senators Blair (*Chair*), Mann (*Vice Chair*), Boley, Hamilton, Maroney, Roberts, Swope, Sypolt, Takubo, Tarr, Facemire, Ihlenfeld, Palumbo, Plymale, Prezioso, Stollings, and Unger.

### GOVERNMENT ORGANIZATION

Senators Boso (*Chair*), Swope (*Vice Chair*), Clements, Mann, Maroney, Smith, Sypolt, Tarr, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, and Woelfel.

### HEALTH AND HUMAN RESOURCES

Senators Maroney (*Chair*), Tarr (*Vice Chair*), Azinger, Maynard, Roberts, Rucker, Takubo, Weld, Palumbo, Plymale, Prezioso, Stollings, and Unger.

### INTERSTATE COOPERATION

Senators Cline (*Chair*), Maynard (*Vice Chair*), Boso, Hamilton, Hardesty, Ihlenfeld, and Unger.

### JUDICIARY

Senators Trump (*Chair*), Weld (*Vice Chair*), Azinger, Boso, Clements, Cline, Maynard, Rucker, Smith, Takubo, Baldwin, Beach, Hardesty, Jeffries, Lindsay, Romano, and Woelfel.

### MILITARY

Senators Weld (*Chair*), Maroney (*Vice Chair*), Cline, Hamilton, Smith, Sypolt, Facemire, Hardesty, and Lindsay.

### NATURAL RESOURCES

Senators Maynard (*Chair*), Mann (*Vice Chair*), Cline, Hamilton, Roberts, Rucker, Smith, Sypolt, Beach, Facemire, Hardesty, Prezioso, and Stollings.

### PENSIONS

Senators Azinger (*Chair*), Hamilton (*Vice Chair*), Boso, Trump, Ihlenfeld, Plymale, and Romano.

## SENATE COMMITTEES

### RULES

Senators Carmichael (*Chair*), Blair, Boley, Maroney, Sypolt, Takubo, Trump, Palumbo, Plymale, Prezioso, and Stollings.

### TRANSPORTATION AND INFRASTRUCTURE

Senators Clements (*Chair*), Swope (*Vice Chair*), Boley, Boso, Mann, Roberts, Beach, Jeffries, and Plymale.

### WORKFORCE

Senators Swope (*Chair*), Weld (*Vice Chair*), Boso, Maroney, Rucker, Smith, Tarr, Baldwin, Beach, Jeffries, and Stollings.

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## JOINT COMMITTEES

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### GOVERNMENT AND FINANCE

Senators Carmichael (*Cochair*), Blair, Takubo, Trump, Weld, Plymale, and Prezioso.

### GOVERNMENT OPERATIONS

Senators Boso (*Cochair*), Clements, Swope, Jeffries, and Palumbo.

### LEGISLATIVE RULE-MAKING REVIEW

Senators Maynard (*Cochair*), Sypolt, Rucker, Weld, Baldwin, Jeffries, and Carmichael (*ex officio*).

### PENSIONS AND RETIREMENT

Senators Azinger (*Cochair*), Hamilton, Tarr, Trump, Plymale, and Romano.

### RULES

Senators Carmichael (*Cochair*), Takubo, and Prezioso.



# SENATE COMMITTEES

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## STATUTORY LEGISLATIVE COMMISSIONS

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### COMMISSION ON ECONOMIC DEVELOPMENT

Senators Maynard (*Cochair*), Swope (*Vice Cochair*), Blair, Hamilton, Mann, Rucker, Trump, Jeffries, Lindsay, Romano, Stollings, and Woelfel.

### COMMISSION ON INTERSTATE COOPERATION

Senators Cline (*Cochair*), Boso, Hamilton, Maynard, Hardesty, Ihlenfeld, Unger, and Carmichael.

### COMMISSION ON SPECIAL INVESTIGATIONS

Senators Carmichael (*Cochair*), Trump, Palumbo, Weld, and Woelfel.

### FOREST MANAGEMENT REVIEW COMMISSION

Senators Sypolt (*Cochair*), Hamilton, Maynard, Baldwin, and Hardesty.

### LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY

Senators Rucker (*Cochair*), Azinger (*Vice Cochair*), Boley, Cline, Roberts, Plymale, and Carmichael (*ex officio*).

### LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY

Senators Tarr (*Cochair*), Maroney, Rucker, Takubo, Prezioso, Stollings, and Carmichael (*ex officio*).

### LEGISLATIVE OVERSIGHT COMMISSION ON STATE WATER RESOURCES

Senators Smith (*Cochair*), Hamilton, Baldwin, and Palumbo.

SENATE COMMITTEES

**LEGISLATIVE OVERSIGHT COMMISSION ON  
WORKFORCE INVESTMENT  
FOR ECONOMIC DEVELOPMENT**

Senators Maynard (*Cochair*), Swope, Trump, and Jeffries.

**LEGISLATIVE OVERSIGHT COMMITTEE  
ON THE REGIONAL JAIL AND  
CORRECTIONAL FACILITY AUTHORITY**

Senators Clements (*Cochair*), Azinger, Boso, Hardesty, and Romano.

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE  
REGULAR SESSION, 2019

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WEDNESDAY, JANUARY 9, 2019

Pursuant to section eighteen, article six of the Constitution of the State of West Virginia, which prescribes that the Legislature shall convene annually on the second Wednesday in January, the Legislature assembled in the state capitol in the City of Charleston on this the ninth day of January, two thousand nineteen, for the first annual session of the eighty-fourth Legislature.

The Senate met in its chamber at 12:07 p.m.

Pending organization of the Senate by the election of a President, under the provisions of section twenty-four, article six of the Constitution, the Senate was called to order by the Honorable Donna J. Boley, a senator from the third senatorial district, being the oldest member present in point of continuous service.

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 Charles S. Trump IV, a senator from the fifteenth district.

The Honorable Mac Warner, Secretary of State, appeared at the bar of the Senate and presented the official returns of the election held on the sixth day of November, two thousand eighteen, for members of the Senate for the State of West Virginia.

**CANDIDATES FOR STATE SENATOR  
FOR THE STATE OF WEST VIRGINIA  
APPEARING TO HAVE BEEN ELECTED  
NOVEMBER 6, 2018**

First Senatorial District: William J. Ihlenfeld II, of the County of Ohio;

Second Senatorial District: Charles H. Clements, of the County of Wetzel;

Third Senatorial District: Michael T. Azinger, of the County of Wood;

Fourth Senatorial District: Eric J. Tarr, of the County of Putnam;

Fifth Senatorial District: Michael A. Woelfel, of the County of Cabell;

Sixth Senatorial District: Mark R. Maynard, of the County of Wayne;

Seventh Senatorial District: Ron Stollings, of the County of Boone;

Eighth Senatorial District: Richard D. Lindsay II, of the County of Kanawha;

Ninth Senatorial District: Rollan A. Roberts, of the County of Raleigh;

Tenth Senatorial District: Stephen Baldwin, of the County of Greenbrier;

Eleventh Senatorial District: Bill Hamilton, of the County of Upshur;

Twelfth Senatorial District: Michael J. Romano, of the County of Harrison;

Thirteenth Senatorial District: Robert D. Beach, of the County of Monongalia;

Fourteenth Senatorial District: Dave Sypolt, of the County of Preston;

Fifteenth Senatorial District: Charles S. Trump IV, of the County of Morgan;

Sixteenth Senatorial District: John R. Unger II, of the County of Berkeley;

Seventeenth Senatorial District: Tom Takubo, of the County of Kanawha.

From the foregoing official returns of the election of members of the Senate, it appears that the persons therein named were elected to the Senate at the election held on the Tuesday next after the first Monday in November, two thousand eighteen.

Whereupon,

On the call of the roll of the Senate, the following members and members-elect answered to their names:

Azinger, Baldwin, Beach, Blair, Boley, Boso, Carmichael, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel.

Thirty-three present and prospective members having answered to their names, the Chair declared the presence of a quorum.

The following members-elect came forward to the Clerk's desk, taking and subscribing to the several oaths of office prescribed by the Constitution, which oaths were administered by the Honorable Evan H. Jenkins, Justice of the Supreme Court of Appeals of West Virginia: William J. Ihlenfeld II, of the County of Ohio; Charles H. Clements, of the County of Wetzel; Michael T.

Azinger, of the County of Wood; Eric J. Tarr, of the County of Putnam; Michael A. Woelfel, of the County of Cabell; Mark R. Maynard, of the County of Wayne; Ron Stollings, of the County of Boone; Richard D. Lindsay II, of the County of Kanawha; Rollan A. Roberts, of the County of Raleigh; Stephen Baldwin, of the County of Greenbrier; Bill Hamilton, of the County of Upshur; Michael J. Romano, of the County of Harrison; Robert D. Beach, of the County of Monongalia; Dave Sypolt, of the County of Preston; Charles S. Trump IV, of the County of Morgan; John R. Unger II, of the County of Berkeley; and Tom Takubo, of the County of Kanawha.

The Senate then proceeded to its biennial organization.

The first order of business in the organization of the Senate being the election of a President,

For that office, Senator Smith nominated the Honorable Mitch Carmichael, of the County of Jackson; seconded by Senator Trump.

Senator Beach then nominated the Honorable Roman W. Prezioso, Jr., of the County of Marion; seconded by Senator Stollings.

There being no further nominations, the Senate proceeded to the vote for the election of a President.

On the call of roll, those voting for Senator Carmichael were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maynard, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, and Weld—19.

Those voting for Senator Prezioso were: Baldwin, Beach, Carmichael, Facemire, Ihlenfeld, Jeffries, Lindsay, Ojeda, Palumbo, Plymale, Romano, Stollings, Unger, and Woelfel—14.

Absent: Maroney—1.

The Chair announced the vote and declared that Senator Carmichael, having received a majority of the votes of all the

members elected to the Senate had been reelected President of the Senate.

Whereupon, the Chair appointed Senators Blair, Takubo, and Prezioso a committee to escort the President-elect to the Chair.

A standing ovation was then accorded the President-elect, as he proceeded to the rostrum accompanied by the foregoing select committee.

Whereupon, Senator Carmichael qualified as President, by taking the several oaths of office prescribed by law and administered by the Honorable Evan H. Jenkins, Justice of the Supreme Court of Appeals of West Virginia.

Senator Carmichael (Mr. President) assumed the Chair and addressed the Senate as follows:

MR. PRESIDENT: Thank you. Thank you from the bottom of my heart for giving me the opportunity to serve as President of this state's most renowned deliberative body, the West Virginia State Senate. I am truly honored, I'm humbled, and I am inspired to help each one of you fulfill the goals and the dreams and the aspirations of a better West Virginia. Each one of us, you know, the beginning of each new legislative session you approach it with an optimism, and a hope for a brighter future, for crafting the policies that will move this state in the direction of prosperity, opportunity, and hope for our citizens. This is an incredible opportunity that we have at this moment to cement the progress that has been made over the past several years.

And as you know, many of you that have been in this body for the past two years, the Eighty-Third West Virginia Legislature was a tumultuous time. We faced—at the beginning of that session, a \$450 million budget deficit. And working together, together, with each one of us, we overcame the obstacles that we confronted, passed a balanced budget, and, the following year, did so in the 60-day legislative session. And I absolutely credit the minority party for helping us do all that was required to move this state forward, in conjunction with so many of our colleagues in the majority.

That's the vision and the optimism and the hope for the future because we can work together to move our state in the right direction and I feel it in this room, I feel that opportunity to work together and to move this state in the right direction. But we had lost jobs—in a declining revenue state we faced these great deficits and we had underpaid teachers and we had underpaid public employees and we have moved the state in the right direction—and it feels good to be a part of that. It feels good to be a part of the opportunity to make a difference in the lives of the people of West Virginia.

So, I'll be brief, as we enter into this Eighty-Fourth West Virginia Session but it is a great opportunity to put aside the partisanship as we begin this new year, this new Eighty-Fourth Legislature, and work together to move this state in the direction that we need. Our education system needs reformed, we must, it is imperative, it's a moral imperative to provide a world-class education to our citizens and to our students. Otherwise, we leave them challenged and at a competitive disadvantage with students from across the nation. So, let's do what we have to do—let's fix this system, let's invest in it as we've already done, let's make another round of enormous investments in our public educators and our public employees.

But, I just want to say thank you from the bottom of my heart for this opportunity to help craft the policies that you want to move this state forward. So, thank you so very much. Thank you.

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At the request of Senator Takubo, and by unanimous consent, the foregoing acceptance remarks by Senator Carmichael (Mr. President) were ordered extended in the Journal.

The next order of business being the election of a Clerk,

For that office, Senator Weld nominated the Honorable Lee Cassis, of the County of Kanawha; seconded by Senator Palumbo.



On motions of Senator Prezioso, severally made, nominations were closed and the President was authorized to cast the unanimous vote of the Senate for the election of Mr. Cassis.

The President then announced the vote and declared that Mr. Cassis, having received all the votes cast, had been unanimously reelected Clerk of the Senate.

Whereupon, Mr. Cassis qualified as Clerk, by taking the several oaths of office prescribed by law and administered by the Honorable Evan H. Jenkins, Justice of the Supreme Court of Appeals of West Virginia.

The next order of business being the election of a Sergeant at Arms,

For that office, Senator Takubo nominated the Honorable Joseph A. Freedman, of the County of Kanawha; seconded by Senator Tarr.

On motions of Senator Prezioso, severally made, nominations were closed and the President was authorized to cast the unanimous vote of the Senate for the election of Mr. Freedman.

The President then announced the vote and declared that Mr. Freedman, having received all the votes cast, had been unanimously elected Sergeant at Arms of the Senate.

Whereupon, Mr. Freedman qualified as Sergeant at Arms, by taking the several oaths of office prescribed by law and administered by the Honorable Evan H. Jenkins, Justice of the Supreme Court of Appeals of West Virginia.

The last order of business in the biennial organization of the Senate being the election of a Doorkeeper,

For that office, Senator Boso nominated the Honorable Jeffrey L. Branham, of the County of Kanawha; seconded by Senator Baldwin.

On motions of Senator Prezioso, severally made, nominations were closed and the President was authorized to cast the unanimous vote of the Senate for the election of Mr. Branham.

The President then announced the vote and declared that Mr. Branham, having received all the votes cast, had been unanimously reelected Doorkeeper of the Senate.

Whereupon, Mr. Branham qualified as Doorkeeper, by taking the several oaths of office prescribed by law and administered by the Honorable Evan H. Jenkins, Justice of the Supreme Court of Appeals of West Virginia.

With the completion of organization of the Senate, by the election of officers for the eighty-fourth Legislature,

The first organizing resolution was then offered, Senators Carmichael (Mr. President), Takubo, and Prezioso submitting the following:

**Senate Resolution 1**—Adopting rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate in effect at the expiration of the eighty-third Legislature are hereby adopted and shall govern the proceedings of the regular sessions of the eighty-fourth Legislature and any extraordinary sessions insofar as applicable, subject to amendment as provided by Rule 60.

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

On motion of Senator Takubo, at 12:45 p.m., the Senate recessed for five minutes for the purpose of making introductions.

The Senate reconvened at 12:50 p.m.

At the request of Senator Takubo, and by unanimous consent, the provisions of rule number fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were

suspended in order to permit the Senators to have members of their families as guests during today's session.

Senator Takubo then offered the following resolution:

**Senate Resolution 2**—Raising a committee to notify the House of Delegates the Senate has assembled and completed its organization.

*Resolved by the Senate:*

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled, with a quorum present, organized by the reelection of the Honorable Mitch Carmichael as President and Mr. Lee Cassis as Clerk, and is ready to proceed with the business of this regular session.

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

Whereupon, the President appointed as members of such committee, the following:

Senators Hamilton, Azinger, and Baldwin.

Subsequently, Senator Hamilton reported that the committee had performed the duty assigned to it.

The first message this session from the House of Delegates, by

Delegates Hollen, Rowan, and Hartman, announced that the House of Delegates has assembled, with a quorum present, organized by the reelection of the Honorable Roger Hanshaw as Speaker and Mr. Stephen J. Harrison as Clerk, and is ready to proceed with the business of this first regular session of the eighty-fourth Legislature.

Senator Takubo then offered the following resolution:

**Senate Resolution 3**—Raising a committee to inform the Governor that the Legislature is organized.

*Resolved by the Senate:*

That a committee of three on the part of the Senate, to join with a committee on the part of the House of Delegates, be appointed by the President to notify His Excellency, the Governor, that the Legislature has assembled in regular session and organized by the election of officers as required by the Constitution and is ready, with a quorum of each house present, to proceed with the business of this session and to receive any communication or message he may desire to present.

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

Whereupon, the President appointed as members of such committee, the following:

Senators Boso, Roberts, and Jeffries.

A message from the House of Delegates, by

Delegates Atkinson, Kessinger, and Rowe, announced that the Speaker had appointed them a committee of three to join with the similar committee on the part of the Senate under the provisions of Senate Resolution 3 to wait upon the Governor. Senate and House members of this select committee then proceeded to the executive offices.

Subsequently, Senator Boso reported that the joint Senate and House committee had performed the duty assigned to it.

Senator Blair offered the following resolution:

**Senate Resolution 4**—Relating to the mailing of bills and journals.

*Resolved by the Senate:*

That during the regular and any extraordinary sessions of the eighty-fourth Legislature the Clerk of the Senate is hereby authorized to have mailed from the Senate document room copies

of bills and daily journals of the Senate; the expenses of such mailing, including postage, to be paid out of the contingent fund of the Senate by the Auditor of West Virginia, in advance of the appropriation therefor, under requisition drawn by the Clerk of the Senate.

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

Senator Blair offered the following resolution:

**Senate Resolution 5**—Authorizing the appointment of permanent and per diem employees for the First Regular Session of the Eighty-Fourth Legislature and payment of their compensation.

*Resolved by the Senate:*

That the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate is hereby authorized to appoint employees to receive the per diem compensation, as herein provided, during this regular sixty-day session of the Eighty-Fourth Legislature, and any extension thereof as follows:

Up to thirty Class I secretaries at a rate of eighty dollars per diem to one hundred ten dollars per diem;

Up to three Class II secretaries at a rate of eighty dollars per diem to one hundred twenty dollars per diem;

Up to five legislative analysts at a rate of eighty dollars per diem to two hundred dollars per diem;

Two pages at a rate of eighty dollars per diem;

Up to ten legal counselors at a rate of two hundred five dollars per diem to two hundred eighty dollars per diem; assignments and salary to be determined by the presiding officer of the Senate;

One bill and journal clerk to the Senate Clerk at a rate of seventy-five dollars per diem to one hundred dollars per diem;

Up to four proofreaders at a rate of eighty dollars per diem to one hundred dollars per diem;

One Sergeant at Arms at a rate not to exceed one hundred fifty dollars per diem;

Up to two assistants to the Sergeant at Arms at a rate of eighty dollars per diem to one hundred dollars per diem;

One Doorkeeper at a rate not to exceed one hundred fifty dollars per diem;

Up to six assistants to the Doorkeeper at a rate of seventy dollars per diem to one hundred dollars per diem;

Up to three mail clerks at a rate of sixty-five dollars per diem to one hundred dollars per diem;

One night custodian at a rate of eighty dollars per diem;

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such per diem staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer 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 presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel; and, be it

*Further Resolved*, That the appointment of salaried full-time employees of the Senate for the year two thousand nineteen and

their compensation, at the following amounts per month, for such periods of time as they are employed in the positions designated, is hereby authorized, as follows:

Clerk .....	7,500.00
Assistant Clerk .....	5,432.43
Executive Secretary to Clerk .....	3,346.67
Fiscal Officer .....	5,255.00
Fiscal Officer .....	5,255.00
Technical Support .....	4,596.67
Chief Desk Clerk .....	5,178.79
Chief Journal Clerk .....	4,511.60
Bill Clerk .....	3,096.67
Clerk to Minor Committees .....	3,541.67
Counsel to President .....	9,500.00
Executive Assistant to President .....	3,833.33
Legislative Analyst to President .....	3,583.33
Secretary to President .....	2,680.00
Director of Communications .....	6,392.50
Parliamentarian .....	4,930.00
Administrative Assistant to Majority Leader .....	2,583.33
Counsel to Minority Leader .....	6,875.00
Administrative Assistant to Minority Leader .....	2,500.00
Counsel to Education Committee .....	7,468.67
Clerk/Analyst to Education Committee .....	3,541.67
Counsel to Finance Committee .....	7,500.00
Budget Analyst to Finance Committee .....	4,166.67
Assistant to Finance Chairman/Clerk .....	3,461.60
Counsel to Government Organization .....	6,875.00
Clerk to Government Organization Committee .....	3,541.67
Secretary to Government Organization Committee .....	3,567.48
Counsel to Health and Human Resources Committee .....	6,875.00
Clerk to Health and Human Resources Committee .....	3,541.67
Counsel to Judiciary Committee .....	7,000.00
Clerk/Analyst to Judiciary Committee .....	3,541.67
Supervisor, Materials & Supplies .....	4,479.16
Purchasing & Procurement Clerk .....	3,743.35
Mail Clerk .....	2,263.33
Custodian .....	2,367.85

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such full-time staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer 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 presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel.

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

Senators Carmichael (Mr. President), Takubo, and Prezioso offered the following resolution:

**Senate Concurrent Resolution 1**—Adopting joint rules of the Senate and House of Delegates.

*Resolved by the Legislature of West Virginia:*

That the Joint Rules of the Senate and House of Delegates governing the eighty-third Legislature are hereby adopted to govern the proceedings of the eighty-fourth Legislature, subject to subsequent amendment.

At the request of Senator Takubo, 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 Carmichael (Mr. President), Blair, and Prezioso offered the following resolution:

**Senate Concurrent Resolution 2**—Relating to the payment of bills for supplies, services and printing and authorized contingent and other expenses of the eighty-fourth Legislature.

*Resolved by the Legislature of West Virginia:*

That for the regular and any extraordinary sessions of the eighty-fourth Legislature, the Auditor of West Virginia, in advance of the appropriation for such purposes, is hereby authorized, upon proper requisition of the Clerk of the Senate and the Clerk of the House of Delegates, to pay bills for supplies and for services furnished to the Legislature preparatory to the beginning of, during and following the adjournment of sessions, including contingent expenses of the respective houses; the per diem of officers, other than the President of the Senate and the Speaker of the House of Delegates, and employees of the Senate and of the House of Delegates; travel expenses of members as authorized by law; bills for legislative printing as the accounts for same become due; and any other authorized contingent and other expenses of the Legislature or the respective houses.

At the request of Senator Takubo, 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 sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills and joint resolutions were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Carmichael (Mr. President), Sypolt, Cline, Takubo, Boso, Clements, Swope, Smith, Ihlenfeld, Baldwin, Stollings, Weld, and Plymale:**

**Senate Bill 1**—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to propose legislative rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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

**By Senators Trump, Boso, Takubo, Weld, and Cline:**

**Senate Bill 2**—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact

§23-5-10 of said code; to amend said code by adding thereto a new section, designated §23-5-11a; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, §51-11-13, and §51-11-14; and to amend and reenact §58-5-1 of said code, all relating generally to the West Virginia Appellate Reorganization Act of 2019; terminating the Workers' Compensation Board of Review and transferring duties to the Intermediate Court of Appeals; requiring board to dispose of cases by a certain date; requiring contested cases under State Administrative Procedures Act to go to the Intermediate Court of Appeals; transferring jurisdiction for review of family court final orders from circuit courts to Intermediate Court of Appeals; placing judges of Intermediate Court of Appeals under the judicial retirement system; altering the residency requirements for membership on the Judicial Vacancy Advisory Commission; creating the Intermediate Court of Appeals; providing a short title; providing legislative findings; defining terms; establishing and defining two geographical districts of the Intermediate Court of Appeals; requiring three-judge panels for proceedings; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; specifically excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing that no two judges of the Intermediate Court of Appeals may be residents of the same state senatorial district or of the same county; providing a process for appointment of judges to the Intermediate Court of Appeals to staggered judicial terms; providing that the Governor's appointments are subject to Senate confirmation; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected office during judicial term; providing for temporary filling of judicial vacancy occurring before the expiration of an appointed judge's term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may

take effect; requiring the chief judge of each Intermediate Court of Appeals district to publish and submit certain reports to the Legislature and Supreme Court of Appeals regarding pending cases; authorizing filing fees; providing for deposit of filing fees in a special revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority of the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings take place in publicly available facilities across the state; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for respective districts; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing for sunset of the Intermediate Court of Appeals on certain date unless continued by the Legislature; and providing that certain appeals are reviewed and a written decision issued by either the Intermediate Court of Appeals or the Supreme Court of Appeals, as a matter of right.

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

**By Senators Boso, Clements, Swope, Takubo, Cline, and Trump:**

**Senate Bill 3**—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 for certain permit requirements; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.

Referred to the Committee on Government Organization.

**By Senators Weld, Plymale, Clements, Takubo, Sypolt, Swope, Cline, and Ihlenfeld:**

**Senate Bill 4**—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; 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 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; and eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.

Referred to the Committee on Government Organization.

**By Senators Takubo, Boso, Stollings, and Jeffries:**

**Senate Bill 5**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-24, relating to requiring the Public Employees Insurance Agency, managed care organizations, and private commercial insurers to develop prior authorization forms; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; establishing form requirements; providing what health care practitioners may submit a prior authorization; providing for a provision for an incomplete submission; providing for an audit; granting enforcement powers to the Insurance Commissioner; setting forth peer review procedures; providing for mandatory medication

provisions upon discharge or substation; requiring certain information to be included on the insurers web page and the form; and setting deadlines.

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

**By Senators Blair, Plymale, Boso, Weld, Clements, Baldwin, Takubo, Swope, Cline, Trump, Stollings, Jeffries, and Ihlenfeld:**

**Senate Bill 6**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25, relating to creating income tax credits against personal income tax for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs.

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

**By Senators Rucker, Boso, Sypolt, and Cline:**

**Senate Bill 7**—A Bill to repeal §18-5-16a of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-5-16 of said code, relating to transfers and enrollment policies for students in public schools.

Referred to the Committee on Education.

**By Senators Blair, Swope, Trump, and Cline:**

**Senate Bill 8**—A Bill to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-4 and §5A-6-8 of said code; and to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e, all relating to dissolving the Information Services and Communications Division; repealing article related to Information Services and Communications Division; authorizing Chief Technology Officer provide training and other services; authorizing Chief Technology Officer provide information services; authorizing Chief Technology Officer to

assess fees for services provided; requiring Chief Technology Officer provide fixed schedule of fees for providing information services; setting forth procedure to be followed if spending unit contests schedule; requiring Chief Technology Officer oversee telecommunications services to state spending units; requiring Chief Technology Officer supervise and maintain the central mailing office; directing the deposit of any moneys received for services; continuing special revenue account for administration of telecommunications services; directing Chief Technology Officer review receipt of charges received from members; setting forth grounds for Chief Technology Officer to challenge charges with vendor and process for doing so; requiring Office of Technology apportion charges among spending units and bill spending units; requiring Office of Technology pay uncontested amounts due for telecommunications services; requiring state spending units pay statements from Office of Technology; authorizing the secretary to direct the transfer of funds into the special revenue account for unpaid telecommunications services; authorizing the secretary to assess a penalty with notice on spending units for unpaid amounts for telecommunications services; authorizing Chief Technology Officer to invoice spending units for amounts paid on behalf of the spending unit; providing a process for state spending units to contest amounts due; authorizing the Secretary of the Department of Administration to make a final decision on contested amounts due; authorizing Chief Technology Officer to discontinue telecommunication services to spending unit that fails to comply with provisions of article; authorizing a proportional fee be assessed against spending units; defining terms; granting rule-making authority; making technical corrections; authorizing a special fund to receive moneys for services provided by the agency; transferring Information Services and Communication Fund to Office of Technology; closing Chief Technology Officer Administration Fund and transferring any remaining balance; authorizing Chief Technology Officer to grant waivers for certain services required by statute; and exempting constitutional officers from requirement to utilize certain services offered by Office of Technology.



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

**By Senators Blair, Plymale, and Boso:**

**Senate Bill 9**—A Bill to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating to personal income tax; alleviating double taxation on foreign income at the state level; and sunsetting the credit for income tax paid on foreign income in 2068.

Referred to the Committee on Finance.

**By Senators Blair, Boso, and Swope:**

**Senate Bill 10**—A Bill to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as amended, all relating to the Second Chance Driver's License Program; providing that court's accounting of amounts due for crime victim restitution be separately identified; providing that any moneys for restitution that are not submitted in the accounting by the court may not be waived by the participant's completion of the program; and providing that amounts of court costs collected under the Second Chance Driver's License Program attributable to crime victim restitution are not subject to the five percent offset for use by the Director of the Division of Justice and Community Services in the administration of the program.

Referred to the Committee on Finance.

**By Senators Blair and Boso:**

**Senate Bill 11**—A Bill to amend and reenact §5-10-2 and §5-10-52 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-10-56; and to amend said code by adding thereto a new section, designated §18-7A-17c, all relating to retirement and pension benefits of certain members of the West Virginia Public Employees Retirement System and the West Virginia Teachers Retirement System who serve in the Legislature; providing that persons who first become members of the retirement system after June 30, 2019, shall have their final average salary calculated based on total years

of service; and providing that members of the Legislature shall receive one day of credited service for each day paid.

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

**By Senators Blair, Jeffries, Takubo, Boso, Lindsay, and Cline:**

**Senate Bill 12**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-1 of said code, all relating to pension benefits exempt from state income taxation; and including Division of Natural Resources police into the class of law-enforcement officers exempted.

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

**By Senator Blair:**

**Senate Bill 13**—A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to changes in distribution of racetrack video lottery net terminal income, excess net terminal income, and excess lottery fund.

Referred to the Committee on Finance.

**By Senators Blair, Boso, Weld, Jeffries, Sypolt, Stollings, Cline, and Lindsay:**

**Senate Bill 14**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, and §19-36-4, all relating to creating the West Virginia Farm-to-School Grant Program; setting out findings and purpose; creating the fund; providing method for allocating grants; limiting grants; authorizing rulemaking; and requiring program review and reports.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators Beach, Stollings, Jeffries, Sypolt, Cline, and Lindsay:**

**Senate Bill 15**—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 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 authority; limiting the liability of landowners; setting forth purchasing and bidding procedures; providing civil remedies; providing for conflicts of interest; providing criminal penalties; providing for severability; establishing an effective date; and authorizing rulemaking.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Cline and Swope:**

**Senate Bill 16**—A Bill to authorize the expenditure of surplus funds by the Wyoming County Commission.

Referred to the Committee on Finance.

**By Senators Trump and Boso:**

**Senate Bill 17**—A Bill to amend and reenact §62-12-2 of the Code of West Virginia, 1931, as amended, relating to eligibility for probation; and adding the option of a psychological study and diagnosis to the studies and treatment required for a person to be eligible for probation.

Referred to the Committee on the Judiciary.

**By Senators Trump, Boso, Takubo, and Cline:**

**Senate Bill 18**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to crimes against the peace; offenses occurring at State Capitol Complex

property; and when a person lawfully entitled to possess a firearm may keep a firearm in a motor vehicle upon a State Capitol Complex property.

Referred to the Committee on the Judiciary.

**By Senators Blair, Boso, Cline, Jeffries, Lindsay, Baldwin, and Stollings:**

**Senate Bill 19**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-13, relating to the Senior Farmers Market Nutrition Program; making legislative findings and intent; creating the Senior Farmers Market Nutrition Program Fund; and requesting additional moneys to be added to the fund.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators Blair, Cline, and Takubo:**

**Senate Bill 20**—A Bill to amend and reenact §11-6A-5a of the Code of West Virginia, 1931, as amended, relating to pollution control facilities tax treatment; clarifying that wind power projects are not pollution control facilities for purposes of this article; and providing that wind power projects be taxed at the real property rate.

Referred to the Committee on Finance.

**By Senators Blair, Sypolt, Cline, and Swope:**

**Senate Bill 21**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10, and §18-2L-11; and to amend said code by adding thereto a new article, designated §18C-8-1, §18C-8-2, §18C-8-3, §18C-8-4, and §18C-8-5, all relating generally to the establishment of the Katherine Johnson Academy as magnet school programs at colleges and universities in West Virginia; defining terms; creating a board of trustees to govern the Katherine Johnson Academy; providing for membership of the board of trustees, the selection of a chair, terms of the trustees,

duties and responsibilities, setting of meetings, and establishing trustees to serve without compensation; authorizing the board of trustees to perform certain duties; providing for the appointment of a president; providing for collaboration agreements for the establishment of magnet school programs; providing for restrictions on the amount that may be charged for tuition, fees, room, board, and books; authorizing the establishment of residential programs and commuter programs at colleges and universities; establishing the Academy of Mathematics and Science and the Academy for the Performing Arts; requiring the board of trustees to select certain host institutions pursuant to a competitive bidding process; establishing certain minimum eligibility requirements for students; authorizing a host institution to determine admission and enrollment; requiring students accepted and admitted into a magnet school program to receive the PROMISE scholarship; providing for students to receive a scholarship from the Katherine Johnson Scholarship Fund; providing that no county board or college or university will be required to participate in this program; requiring the Katherine Johnson Academy, the State Board of Education, and the Higher Education Policy Commission to promulgate a joint rule for the administration of the Katherine Johnson Academy; establishing the Katherine Johnson Scholarship Fund; providing for state and county support for the Katherine Johnson Scholarship Fund based on per pupil allocations; defining terms; and providing for rulemaking.

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

**By Senators Blair and Cline:**

**Senate Bill 22**—A Bill to amend and reenact §30-39-1, §30-39-2, §30-39-3, §30-39-4, §30-39-5, §30-39-6, §30-39-7, §30-39-9, §30-39-10, §30-39-11, §30-39-12, §30-39-13, §30-39-14, §30-39-15, §30-39-16, §30-39-19, and §30-39-21 of the Code of West Virginia, 1931, as amended, all relating to adopting the Revised Uniform Athlete Agents Act of 2015; modifying short title; defining terms; granting legislative rule-making authority to the Secretary of State; establishing seven-day limit on athlete agent to

register; requiring additional information from applicant in registration process; eliminating language making applications or renewals for athlete agent registration public records; providing for reciprocal registration; updating required contents of reciprocal registration application; requiring Secretary of State issue reciprocal license if certain criteria satisfied; requiring Secretary of State cooperate with certain national organizations; allowing the Secretary of State to consider whether the athlete agent has pled guilty or no contest to a crime of moral turpitude in decision to issue registration; providing requirements for reciprocal renewals of registration; providing Secretary of State authority to suspend or revoke registration for same reasons as would justify refusal to issue certificate of registration; permitting applicant to appeal adverse decision of Secretary of State; authorizing Secretary of State promulgate procedural rules to implement appeal procedures; increasing fees for initial license and renewal; adding required contract terms; requiring certain notices by athlete agent to educational institutions; requiring educational institution notify Secretary of State and others if it becomes aware of violation of article by athlete agent; allowing parent and guardian of student athlete ability to cancel contract; requiring athlete agent to create certain records; expanding scope of what constitutes prohibited conduct under the act; expanding scope of who might engage in prohibited conduct under the act; expanding scope of who can be charged with a criminal violation of the act; enabling student athletes to bring civil action for act or omission of athlete agent; expanding scope of damages that may be available in civil action; making a civil violation an unfair trade practice under West Virginia law; establishing relation to the Electronic Signatures in Global and National Commerce Act; and modifying effective date.

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

**By Senators Blair, Plymale, Sypolt, Cline, and Boso:**

**Senate Bill 23**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, relating to the creation of a five-year sunset on all tax credits established in chapter 11 of the code.

Referred to the Committee on Finance.

**By Senators Blair, Baldwin, Takubo, and Sypolt:**

**Senate Bill 24**—A Bill to amend and reenact §16-2-14 of the Code of West Virginia, 1931, as amended, relating to employees of local boards of health; making legislative findings; requiring the Legislature to provide funds to Department of Health and Human Resources to provide local boards of health funds for pay raises for employees when the Legislature provides funds for across-the-board pay raises for state employees; limiting Department of Health and Human Resources from using provided funds for any other purpose; requiring annual funding to continue pay raises; and prohibiting Department of Health and Human Resources from placing additional restrictions or obligations on provided funds.

Referred to the Committee on Finance.

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

**Senate Bill 25**—A Bill to amend and reenact §18B-2A-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-3C-9 of said code, all relating to authorizing a governing board of a state institution of higher education to eliminate tenure for faculty at the institution under its jurisdiction; and removing prior exemptions.

Referred to the Committee on Education.

**By Senator Blair:**

**Senate Bill 26**—A Bill to amend and reenact §18-7A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7B-2 of said code, all relating to permitting employees of educational services cooperatives to participate in the State Teachers Retirement System; and permitting persons employed for instructional services by educational services cooperatives to participate in the State Teachers' Defined Contribution Retirement System.

Referred to the Committee on Pensions.

**By Senator Blair:**

**Senate Bill 27**—A Bill to amend and reenact §29-22-9 of the Code of West Virginia, 1931, as amended, relating to removing

restrictions on where certain traditional lottery games may be played.

Referred to the Committee on Finance.

**By Senators Blair, Boso, and Clements:**

**Senate Bill 28**—A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to removing the limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services.

Referred to the Committee on Finance.

**By Senators Blair, Plymale, Stollings, Boso, Jeffries, and Swope:**

**Senate Bill 29**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, and §11-28-3, all relating to creating five-year tax credits for businesses locating on post-coal mine sites; defining terms; setting eligibility requirements for tax credit; establishing amount of tax credit allowed; establishing how the credit may be applied; and providing rule-making authority.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Blair and Cline:**

**Senate Bill 30**—A Bill to amend and reenact §33-3-15 of the Code of West Virginia, 1931, as amended, relating to eliminating taxation on annuity considerations collected and received by a life insurer.

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

**By Senators Blair and Boso:**

**Senate Bill 31**—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23, and §7-20-24 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto twenty-seven



new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16e, all relating to Local Powers Act; renaming short title the County Local Powers Act; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; making technical corrections; amending authorization for county commissions related to imposition of impact fees, services fees, and other taxes; providing for county commission review and permissive approval of impact fees; amending use of proceeds from sale of bonds; adding payment sources for bonds; allowing the reallocation of certain ad valorem property taxes after ratification of constitutional amendment and procedures and requirements related to reallocation of ad valorem property taxes; specifying effective date; providing requirements and procedures concerning creation and finalization of county road construction project plans and amendments thereto; specifying public hearing and notice requirements and opportunity for public comment; requiring consent; permitting joint road construction projects; setting forth duties, authorities, and jurisdiction of Commissioner of Highways; authorizing intergovernmental agreements and setting forth requirements related thereto; providing for the termination of road construction projects plan; providing for application for approval of road construction project plans and application content; providing for certification of road construction project; providing rule-making authority; providing for acceptance into state road system; qualifying road construction projects as public improvements; providing for reporting by Commissioner of Highways; creating special revenue revolving fund and for county subaccounts; providing for funding and expenditures from account; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds; permitting cash-basis projects; setting forth requirements concerning issuance, selling, execution, and use of bonds; permitting trust agreements; specifying that bonds and other obligations undertaken by the West

Virginia Economic Development Authority do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality, or any other political subdivision; specifying that bonds are negotiable instruments; providing exemption from taxation; waiving and exempting personal liability; providing that authority for exercise of powers are cumulative and neither powers nor bonds are limited; providing for termination of special allocation of property taxes; providing for excess fund deposit; specifying that powers are supplemental; providing for severability; and providing authority and requirements related to West Virginia Economic Development Authority, including authority to issue bonds, limitations, payments, certification, and return of unused funds.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senator Cline:**

**Senate Bill 32**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to providing a special license plate for realtors; and establishing a fee.

Referred to the Committee on Government Organization.

**By Senators Cline and Ihlenfeld:**

**Senate Bill 33**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for malicious assault, unlawful assault, and assault on a law-enforcement officer.

Referred to the Committee on the Judiciary.

**By Senator Cline:**

**Senate Bill 34**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-6-1a, relating to authorizing the Commissioner of the Division of Highways or local authorities to establish minimum speed limits in certain congested areas; and imposing fines.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Weld, Boso, and Baldwin:**

**Senate Bill 35**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-19-1, relating to providing protection from civil liability for certain individuals for damage to an owner's motor vehicle when removing a domesticated animal from the locked and/or unattended motor vehicle under certain circumstances.

Referred to the Committee on the Judiciary.

**By Senators Weld and Boso:**

**Senate Bill 36**—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees receiving pensions from defined benefit pension plans that have been terminated with a consequent reduced benefit; and reinstating the effective period of the allowed adjustment.

Referred to the Committee on Finance.

**By Senators Weld and Baldwin:**

**Senate Bill 37**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-63, relating to exempting certain persons from fees for hunting, fishing, and trapping licenses and permits; providing that fees for hunting, trapping, and fishing licenses and permits are waived for certain volunteer firefighters; including eligibility requirements; requiring compliance with all other requirements to obtain license; and granting rule-making authority.

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

**By Senators Weld, Boso, Jeffries, and Lindsay:**

**Senate Bill 38**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-1 of said code, all relating to pension benefits exempt from state income taxation; and including Division of

Natural Resources police into the class of law-enforcement officers exempted.

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

**By Senators Weld, Boso, and Baldwin:**

**Senate Bill 39**—A Bill to amend and reenact §18B-10-1a of the Code of West Virginia, 1931, as amended, relating generally to in-state residency tuition rates; providing that members of a reserve unit in West Virginia shall qualify as residents for purposes of calculating tuition rates; striking the requirement that members of the National Guard participate in the National Guard education services program; and providing that current members of the United States armed forces shall qualify as residents for purposes of calculating tuition rates.

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

**By Senator Weld:**

**Senate Bill 40**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §6-2-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, and §62-16-13, all relating to establishing a Mental Health and Military Service Member Court program within Supreme Court of Appeals; defining terms; granting authority to oversee court to Administrator of Supreme Court of Appeals; setting forth structure of court; providing for written agreement to participate in court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of court; setting out disposition on successful completion; providing for teams to function within court; setting forth eligibility requirements for participation; setting forth procedure to participate in court; allowing for mental health and drug treatment services for participants; providing for governance of court by Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; and providing for limitation of liability.

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

**By Senators Trump and Boso:**

**Senate Bill 41**—A Bill to amend and reenact §17C-5-2, §17C-5-2b, §17C-5-4, §17C-5-7, and §17C-5-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1, §17C-5A-1a, and §17C-5A-3 of said code; to amend said code by adding thereto two new sections, designated §17C-5A-1b and §17C-5A-1c; to amend said code by adding thereto a new section, designated §17C-5C-6; and to amend and reenact §17C-19-3 of said code, all relating generally to the procedures for driver's license suspensions and revocations for driving under the influence of alcohol, controlled substances, or drugs; transferring authority for hearing matters related to suspensions or revocations of driver's licenses for operating a motor vehicle while under the influence of alcohol, controlled substances, or drugs from the Office of Administrative Hearings to courts; establishing mandatory revocation periods for individuals convicted of driving under the influence; authorizing alternate revocation period involving participation in Motor Vehicle Alcohol Test and Lock Program for certain first offenses; establishing mandatory revocation periods for individuals upon subsequent convictions for driving under the influence; directing Commissioner of Division of Motor Vehicles to revoke driver's license upon conviction for driving under the influence; requiring individuals whose driver's licenses have been revoked upon conviction for driving under the influence to complete comprehensive safety and treatment program before driver's license can be reinstated; prohibiting persons convicted of certain felonies from participating in Motor Vehicle Alcohol Test and Lock Program; permitting persons convicted of certain misdemeanors to participate in Motor Vehicle Alcohol Test and Lock Program; requiring driver consent prior to imposing participation in Motor Vehicle Alcohol Test and Lock Program; requiring any period of revocation imposed pursuant to a conviction begin once any period of incarceration has been served; making individuals who are found guilty of driving under the influence ineligible for deferral of further proceedings upon condition of participation in Motor Vehicle Alcohol Test and Lock

Program; requiring deferral program to be completed within one year; prohibiting secondary test of blood without issuance of warrant signed by a magistrate or circuit judge; authorizing secondary test of blood with written consent; requiring that individual arrested for driving under the influence be advised verbally of certain consequences for refusal to submit to secondary chemical test; requiring that individual arrested for driving under the influence be given written statement informing the individual of legal consequences of taking or refusing to submit to secondary chemical test and informing the individual of right to receive secondary blood test; requiring arresting officer to wait 15 minutes before refusal considered final; requiring that, following an individual's refusal to submit to secondary chemical test, an arresting officer execute a signed statement that the officer administered all required warnings; directing officer to submit copy of written statement to Commissioner of Division of Motor Vehicles and court having jurisdiction over charges filed against the individual; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of a driving under the influence arrest absent direction from court; directing Bureau for Public Health to prepare report for Joint Committee on Government and Finance related to minimum levels of drugs and controlled substances to be admitted as prima facie evidence of driving under the influence and minimum levels that laboratories can reliably identify and measure in blood; limiting administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2020; providing that administrative hearings relating to refusal to undergo a secondary chemical test do not apply to offenses occurring on or after July 1, 2020; eliminating requirement for an order entered by the Division of Motor Vehicles revoking a driver's license to advise of procedures for requesting administrative hearing when the offense is driving under the influence; limiting the right of individuals to challenge suspension or revocation of driver's licenses to the issue of mistaken identity; requiring the commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; providing that plea of no contest constitutes a conviction;

requiring pretrial suspension of driver's license if individual refuses to submit to secondary chemical test; permitting pretrial suspension of driver's license by court under certain circumstances; establishing right to request and receive hearing of suspension orders pending criminal proceedings in court where case is pending; setting time limits for defendant to request hearing and for hearing to be held; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license and any surrendered license to the Division of Motor Vehicles; providing terms and length of pretrial license suspension; giving persons convicted of driving under the influence credit for pretrial suspension time against period of revocation imposed; authorizing court to modify pretrial suspension of driver's license; providing that any period of modified pretrial driver's license suspension is not credited against future period of revocation imposed; establishing the scope of review for judicial review of pretrial driver's license suspension for refusal to submit to secondary chemical test; directing clerk of court to forward orders on refusal hearings to Division of Motor Vehicles; providing that finding of driver refusal is final if no hearing requested; prescribing periods of revocation for Commissioner of Division of Motor Vehicles to impose upon receipt of court order on refusal; directing copy of revocation order to be sent to person by certified mail; specifying contents of order; providing that revocation for refusal run concurrently with other revocation imposed as a result of same incident that led to refusal; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful completion thereof; establishing procedures and timeline for the Office of Administrative Hearings to transfer jurisdiction of certain driver's license suspension and revocation matters to the courts; establishing timeline for Office of Administrative Hearings to transfer jurisdiction of certain driver's license suspension and revocation matters to Division of Motor Vehicles; directing arresting officer to request, and driver to surrender, driver's license upon arrest for driving under the influence; eliminating obsolete language; and making technical corrections.

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

**By Senator Trump:**

**Senate Bill 42**—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to the number of magistrates in Berkeley County.

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

**By Senator Trump:**

**Senate Bill 43**—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §46A-6-107a and §46A-6-107b, all relating generally to warranties for used motor vehicles; providing that a consumer who purchases a used motor vehicle may waive a warranty as to a particular defect or malfunction which the merchant has disclosed in writing to the consumer; providing that a waiver of warranties is not effective unless the waiver satisfies certain requirements; providing that a used motor vehicle may only be sold “as is” under certain circumstances; providing certain disclosure requirements for “as is” sales of used motor vehicles; providing that a consumer shall sign and date the disclosure for an “as is” sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle “as is”; providing that the merchant shall provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 44**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-4-1, §4-4-2, §4-4-3, §4-4-4, §4-4-5, and §4-4-6, all relating to the Appropriation Supremacy Act of 2019; providing title; defining



appropriation; stating findings and purpose; establishing that appropriations by the Legislature take precedence over contrary directives in statute or rules; requiring liberal construction of article; and recognizing constitutional restrictions on appropriations.

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

**By Senators Trump and Sypolt:**

**Senate Bill 45**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25c, relating to education; providing for the Tim Tebow Act; permitting students instructed at home, by a private tutor or enrolled in a private, parochial, or church school or a school operated by a religious order, who do not attend a school that is a member of the West Virginia Secondary School Activities Commission to participate in extracurricular activities that are under the authority of the commission at a school that is a member of the commission; providing requirements, standards, and insurance coverage; and providing that accommodating schools may not be impeded from competing against other schools.

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

**By Senator Smith:**

**Senate Bill 46**—A Bill to amend and reenact §62-12-9 of the Code of West Virginia, 1931, as amended, relating to requiring probationers who have served 10 or more years to participate in a work release program and spend six months in a work release center; and requiring that 70 percent of their earnings be held in an account and provided to them at the successful completion of the six-month period.

Referred to the Committee on the Judiciary.

**By Senators Smith, Sypolt, and Swope:**

**Senate Bill 47**—A Bill to amend and reenact §11-6A-5a of the Code of West Virginia, 1931, as amended, relating to pollution

control facilities tax treatment; clarifying that wind power projects are not pollution control facilities for purposes of this article; and providing that wind power projects be taxed at the real property rate.

Referred to the Committee on Finance.

**By Senator Smith:**

**Senate Bill 48**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, relating to the creation of a five-year sunset on all tax credits and tax incentives established by the same chapter.

Referred to the Committee on Finance.

**By Senator Smith:**

**Senate Bill 49**—A Bill to amend and reenact §46A-6B-3 of the Code of West Virginia, 1931, as amended, relating to the use of aftermarket crash parts by a motor vehicle repair shop; and requiring new original equipment parts be used in order to maintain the manufacturer's warranty.

Referred to the Committee on the Judiciary.

**By Senator Smith:**

**Senate Bill 50**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend said code by adding thereto a new section, designated §26-5-2; and to amend said code by adding thereto a new section, designated §26-9-3, all relating to providing long-term care and substance abuse treatment; authorizing the Secretary of the Department of Health and Human Resources to modernize or build new facilities; requiring certified beds for long-term care and substance abuse treatment; requiring facilities for outpatient substance abuse treatment; requiring the hiring of adequate professional classified staff; and replacing an outdated reference in said code to Pinecrest Hospital with the correct name of Jackie Withrow Hospital.

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

**By Senator Smith:**

**Senate Bill 51**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-9-1, relating to transferring child welfare enforcement responsibilities to the West Virginia State Police; transferring employees, funds, and property of the Department of Health and Human Resources to the West Virginia State Police; providing that the transferred employees remain in the Civil Service System, continue to participate in Public Employees Retirement System Insurance, and continue to be covered by the Public Employees Insurance Act; and requiring rulemaking.

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

**By Senator Smith:**

**Senate Bill 52**—A Bill to amend and reenact §11-13Q-3, §11-13Q-7, and §11-13Q-19 of the Code of West Virginia, 1931, as amended, all relating to entitling natural resource producers to the economic opportunity tax credit; allowing the credit to be used to offset the severance tax; establishing conditions; and modifying definitions.

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

**By Senators Smith and Swope:**

**Senate Bill 53**—A Bill to repeal §11-6A-5a of the Code of West Virginia, 1931, as amended, relating to the tax treatment of wind power projects.

Referred to the Committee on Finance.

**By Senator Boso:**

**Senate Bill 54**—A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-4-3 of said code; to amend and reenact §17C-1-5a of said code; and to amend and reenact §17C-15-44 of said code, all relating to allowing people to operate small-engine mopeds without a driver's license or while a driver's license to operate

other motor vehicles is suspended or revoked; changing definition of “moped”; and expressly providing that helmets are required for operators of mopeds.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Boso and Jeffries:**

**Senate Bill 55**—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 use of wireless communication device while operating motor vehicle and specifying exception; and making violation of level-three license terms and conditions subject to penalty provision.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senator Boso:**

**Senate Bill 56**—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to distribution of portions of the filing fee charged for the expungement of certain criminal convictions upon proper petition.

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

**By Senator Boso:**

**Senate Bill 57**—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23, and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto 27 new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16e, all relating to Local Powers Act; renaming short title the County Local Powers Act; amending purpose and legislative findings; amending

certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; making technical corrections; amending authorization for county commissions related to imposition of impact fees, services fees, and other taxes; providing for county commission review and permissive approval of impact fees; amending use of proceeds from sale of bonds; adding payment sources for bonds; allowing the reallocation of certain ad valorem property taxes after ratification of constitutional amendment and procedures and requirements related to reallocation of ad valorem property taxes; specifying effective date; providing requirements and procedures concerning creation and finalization of county road construction project plans and amendments thereto; specifying public hearing and notice requirements and opportunity for public comment; requiring consent; permitting joint road construction projects; setting forth duties, authorities, and jurisdiction of Commissioner of Highways; authorizing intergovernmental agreements and setting forth requirements related thereto; providing for the termination of road construction projects plan; providing for application for approval of road construction project plans and application content; providing for certification of road construction project; providing rule-making authority; providing for acceptance into state road system; qualifying road construction projects as public improvements; providing for reporting by Commissioner of Highways; creating special revenue revolving fund and for county subaccounts; providing for funding and expenditures from account; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds; permitting cash-basis projects; setting forth requirements concerning issuance, selling, execution, and use of bonds; permitting trust agreements; specifying that bonds and other obligations undertaken by the West Virginia Economic Development Authority do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality, or any other political subdivision; specifying that bonds are negotiable instruments; providing exemption from taxation; waiving and exempting personal liability; providing that authority for exercise of powers are cumulative and neither powers nor bonds are limited; providing for termination of special allocation of property taxes; providing for

excess fund deposit; specifying that powers are supplemental; providing for severability; and providing authority and requirements related to West Virginia Economic Development Authority, including authority to issue bonds, limitations, payments, certification, and return of unused funds.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senator Plymale:**

**Senate Bill 58**—A Bill to amend and reenact §11-15B-15 of the Code of West Virginia, 1931, as amended, relating to reinstating the exemption for certain sellers of cut flowers and flower arrangements from the general sourcing rules for purposes of the streamlined sales and use taxes; detailing when the exception is applicable; and repealing language that previously ended the exception.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Plymale, Boso, Stollings, Baldwin, and Jeffries:**

**Senate Bill 59**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18C-7-8, relating to creation of the Business PROMISE+ Scholarship; establishing the scholarship under the management of the Higher Education Policy Commission; creating a special revenue account; explaining funding for the scholarship; authorizing the issuance of tax credits for certain businesses; authorizing legislative rules by the Higher Education Policy Commission and the Tax Commissioner; setting student eligibility; noting business benefits and requirements; creating a process for awarding a specific amount of funds; detailing student requirements upon receipt of the scholarship; and requiring the creation of a deferral and waiver program for certain requirements.

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

**By Senators Plymale and Stollings:**

**Senate Bill 60**—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6, and §30-20A-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §30-20A-8, §30-20A-9, §30-20A-10, §30-20A-11, §30-20A-12, §30-20A-13, §30-20A-14, §30-20A-15, and §30-20A-16, all relating to licensing the practice of athletic training; making the practice of athletic training unlawful without license or permit; establishing applicable law; defining terms; establishing eligibility for license; defining the scope of practice; establishing requirements for reciprocal agreements; establishing requirements for temporary permits; establishing renewal requirements; establishing requirements for delinquent or expedited licenses; establishing requirements for an active license; creating exemptions; requiring display of license; establishing complaint process and investigation procedures; establishing grounds for disciplinary action; establishing hearing procedures and right to appeal; providing for judicial review of decision; and providing criminal penalties.

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

**By Senators Weld and Trump:**

**Senate Bill 61**—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including treason, murder, certain degrees of robbery, and organized crime to the list of crimes for which a prosecutor may apply for order authorizing interception of communications.

Referred to the Committee on the Judiciary.

**By Senators Weld and Clements:**

**Senate Bill 62**—A Bill to amend and reenact §60A-4-407 of the Code of West Virginia, 1931, as amended, relating to requiring participation in a drug court program, under certain circumstances, before a conditional discharge for first offense of possession of a controlled substance may be granted.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 63**—A Bill to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating to partial filling of prescriptions; permitting partial filling of prescriptions for controlled substances listed in Schedule II under certain circumstances; setting conditions for partial filling of prescriptions for controlled substances listed in Schedule II; permitting remaining portion of prescription to be filled within 30 days of first partial filling; setting forth steps to be followed if pharmacist is unable to fill remaining portion of prescription; prohibiting further quantities from being supplied beyond 72 hours in absence of new prescription; providing that remaining portions of a partially filled prescription for controlled substances listed in Schedule II may be filled in emergency situations; and defining “emergency situation”.

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

**By Senator Swope:**

**Senate Bill 64**—A Bill to amend and reenact §21-3D-3 and §21-3D-4 of the Code of West Virginia, 1931, as amended, all relating generally to certification requirements of crane operators; providing that crane operators may be certified by additional nationally recognized accredited agencies; and changing the written exam requirements for Class A and Class B certifications.

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

**By Senator Swope:**

**Senate Bill 65**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5A-1, §21-5A-2, §21-5A-3, and §21-5A-4, all relating to prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other legal requirements; providing a short title; defining terms; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement



which regulates information requested, required, or excluded on an application for employment; providing an exception; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay a wage higher than any applicable state or federal law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay wages or fringe benefits based on a rate prevailing in the locality; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates work stoppage, strike activity, or means by which employees organize; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to provide paid or unpaid leave time; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer or its employees to participate in an apprenticeship or apprenticeship training program not required by federal or state law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates an employee's hours and scheduling; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards or requirements regarding the sale or marketing of consumer merchandise that are different from or in addition to state law; providing an exception; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards of care or conduct of certain professions; clarifying effect on prior written agreements; providing that any prohibited ordinance, regulation, local policy, local resolution, or other legal requirement in effect prior to the effective date is void; providing that the prohibitions do not apply to employees of a political subdivision; and clarifying the effect on the West Virginia Alcohol and Drug-Free Workplace Act.

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

**By Senator Swope:**

**Senate Bill 66**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §47-28-1, §47-28-2, §47-28-3, and §47-28-4, all relating to prohibiting certain misleading lawsuit advertising practices; providing for certain disclosures and warnings in lawsuit advertising for the protection of patients; and imposing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senator Swope:**

**Senate Bill 67**—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence, and failure to mitigate damages.

Referred to the Committee on the Judiciary.

**By Senator Swope:**

**Senate Bill 68**—A Bill to amend and reenact §21-3D-3 and §21-3D-4 of the Code of West Virginia, 1931, as amended, all relating generally to certification requirements of crane operators; providing that crane operators may be certified by additional nationally recognized accredited agencies; and changing the written exam requirements for Class A and Class B certifications.

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

**By Senator Swope:**

**Senate Bill 69**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to requiring that certain documents that include records of wages be considered confidential; prohibiting governmental entity that requires private company contracting with, or seeking to contract

with, a governmental entity for a construction project to submit any document that includes records of actual wages paid to employers from disclosing document or information contained therein to any other entity or person; permitting disclosure of such document or information to state or federal agency; providing that any such document containing records of actual wages paid to employees shall be considered confidential and proprietary and may not be considered a public record; defining “governmental entity”; defining contents of certified payroll document; providing that any document containing records of actual wages paid to employees filed or submitted pursuant to the West Virginia Jobs Act may not be disclosed by the Division of Labor or a public authority to any other entity or person other than to a state or federal agency; and providing that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be considered confidential and proprietary and may not be considered a public record.

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

**By Senator Swope:**

**Senate Bill 70**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5A-1, §21-5A-2, §21-5A-3, and §21-5A-4, all relating to prohibiting political subdivisions from enacting any ordinance, regulation, local policy, local resolution, or other legal requirements regulating certain areas of the employer-employee relationship and the sale or marketing of consumer merchandise; establishing a short title; establishing areas where political subdivisions are prohibited from enacting or promulgating ordinances, local policies, or local regulations; and providing for exceptions and applicability.

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

**By Senators Woelfel, Trump, and Boso:**

**Senate Bill 71**—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as

amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; clarifying composition and chairmanship of commission; redefining what constitutes a quorum for voting procedures of commission; clarifying contents of commission's annual report; listing existing and necessary commission staff positions; granting power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, or any other tangible thing, computers, laptops, computer hard drives, electronic records including, but not limited to, emails, files, documents and metadata, or any other thing, in any form in which they may exist; requiring compliance with such requests; authorizing the director to issue subpoenas on the commission's behalf; granting authority to the commission to require an agency head to appear before the commission to answer questions regarding a failure to appear or produce requested or subpoenaed material or other related concerns including the basis for the failure to comply; authorizing the commission and director to order or direct that all or a portion of the information communicated to the commission at the commission's request, including the existence of the investigation, be confidential and not made public; establishing requirements for commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of commission; establishing procedure for commission retention and disposal of records; defining new offense of impersonating a commission member or staff member and of obstructing a commission member or staff; establishing penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; and authorizing sale of surplus weapons to active and retired members of the commission's investigative staff.

Referred to the Committee on the Judiciary.

**By Senators Woelfel, Stollings, and Baldwin:**

**Senate Bill 72**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits, and other similar topics; clarifying the right of a victim to be accompanied by a personal representative during certain proceedings; requiring sexual assault victims be informed or notified of certain rights; incorporating other rights contained in code; and defining terms.

Referred to the Committee on the Judiciary.

**By Senator Cline:**

**Senate Bill 73**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §17C-1-70 and §17C-1-71; and to amend and reenact §17C-17-9a, §17C-17-11a, and §17C-17-11d of said code, all relating to increasing the weight limits for vehicles on highways other than the national system of interstate and defense highways; and providing definitions.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senator Cline:**

**Senate Bill 74**—A Bill to amend and reenact §23-2-1a of the Code of West Virginia, 1931, as amended, relating to exempting nonpaid volunteers at ski areas from workers' compensation benefits.

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

**By Senators Sypolt and Boso:**

**Senate Bill 75**—A Bill to amend and reenact §7-7-6e of the Code of West Virginia, 1931, as amended, relating to authorizing

owners of breeding-age cows to participate in the Coyote Control Program by paying a voluntary head tax.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senator Cline:**

**Senate Bill 76**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-6-15, relating to the creation of emergency text number systems for children; and declaring that this be known as Constance’s Law.

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

**By Senator Cline:**

**Senate Bill 77**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-15-51, relating to requiring motor vehicles, trailers, or semitrailers having a hydraulically operated bed to have a warning device that will alert the operator when the vehicle is in motion and the bed is in an upward position; and requiring rulemaking.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Cline and Baldwin:**

**Senate Bill 78**—A Bill to amend and reenact §48-10-802 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-10-803, all relating to specifying forms of grandparent visitation; allowing daytime and overnight visits as well as electronic communication; and defining the term “electronic communication”.

Referred to the Committee on the Judiciary.

**By Senators Boso, Stollings, and Swope:**

**Senate Bill 79**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-

2L-7, §18-2L-8, §18-2L-9, §18-2L-10, §18-2L-11, and §18-2L-12; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, and §18C-9-5, all relating generally to the establishment of the Katherine Johnson Academy as magnet school programs at colleges and universities in West Virginia; defining terms; creating a board of trustees to govern the Katherine Johnson Academy; providing for membership of the board of trustees, the selection of a chair, terms of the trustees, duties and responsibilities, setting of meetings, and establishing trustees to serve without compensation; authorizing the board of trustees to perform certain duties; providing for the appointment of a president; providing for collaboration agreements for the establishment of magnet school programs; providing for restrictions on the amount that may be charged for tuition, fees, room, board, and books; authorizing the establishment of residential programs and commuter programs at colleges and universities; establishing the Academy of Mathematics and Science and the Academy for the Performing Arts; requiring the board of trustees to select certain host institutions pursuant to a competitive bidding process; establishing certain minimum eligibility requirements for students; authorizing a host institution to determine admission and enrollment; requiring students accepted and admitted into a magnet school program to receive the PROMISE scholarship; providing for students to receive a scholarship from the Katherine Johnson Scholarship Fund; providing that no county board or college or university will be required to participate in this program; requiring the Katherine Johnson Academy, the State Board of Education, and the Higher Education Policy Commission to promulgate a joint rule for the administration of the Katherine Johnson Academy; establishing the Katherine Johnson Scholarship Fund; providing for state and county support for the Katherine Johnson Scholarship Fund based upon per-pupil allocations; defining terms; and providing for rulemaking.

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

**By Senators Takubo, Clements, and Jeffries:**

**Senate Bill 80**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, and §11-13EE-9, all relating to establishing a tax credit for certain physicians who locate in this state to practice; providing for criteria for the tax credit; establishing education requirements; setting forth a time limit to claim the tax credit; setting forth length of residency requirements; setting forth findings; defining terms; authorizing the credit; specifying the amount of the tax credit; providing how the credit may be asserted; specifying no tax credit carryover; allowing forms and schedules to be established by the Tax Commissioner in rule; setting maximum amount per taxpayer per year; authorizing the Tax Commissioner to promulgate rules; and setting effective date.

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

**By Senators Takubo, Boso, Stollings, Jeffries, Lindsay, and Ihlenfeld:**

**Senate Bill 81**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-9A-11, relating to prohibiting smoking of tobacco products in a motor vehicle while an individual 16 years of age or less is present; defining terms; making the violation a secondary misdemeanor offense; and providing a penalty.

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

**By Senators Baldwin, Stollings, Jeffries, and Lindsay:**

**Senate Bill 82**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-10b, relating to providing a credit against personal income tax for classroom teachers for nonreimbursed costs of supplies; and setting a maximum credit of \$500.



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

**By Senators Baldwin and Plymale:**

**Senate Bill 83**—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-3E-7 and §29-3E-14 of said code, all relating to funding for veterans' programs and volunteer fire departments; ending the sales tax exemption on charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs; setting an effective date for the elimination of the exemption; requiring revenue from the elimination of the exemption be deposited in the Veterans Facility Support Fund; directing the Division of Veterans' Affairs to use the revenue to fund bonds for certain purposes; ending the deposit of a portion of the fireworks safety fee in the Veterans Facility Support Fund and instead depositing it into the Fire Protection Fund for volunteer fire departments; and eliminating the annual report from the Secretary of Veterans' Affairs to the Legislature regarding the amount of revenue collected from the fireworks safety fee.

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

**By Senator Baldwin:**

**Senate Bill 84**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated §18-2-42; and to amend said code by adding thereto a new section, designated §18B-2A-9, all relating to establishing the Stay in State tax credit against personal income for higher education tuition for certain state residents; creating credit for student loan payments for all in-state community college, college, or university undergraduates and their in-state employers against personal income tax; establishing conditions and qualifications for the tax credit; providing methodology for calculating credit; providing for graduate and employer eligibility for payments against student loans for employees; defining terms; and providing

for the board of education, State Board of Education, and governing boards of colleges promotion of the program.

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

**By Senators Baldwin, Plymale, Jeffries, and Lindsay:**

**Senate Bill 85**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-2A-5a, relating to drug testing of legislators.

Referred to the Committee on the Judiciary.

**By Senators Beach, Jeffries, and Lindsay:**

**Senate Bill 86**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; and requiring boards to provide free feminine hygiene products in grades six through 12.

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

**By Senators Beach, Lindsay, and Jeffries:**

**Senate Bill 87**—A Bill to amend and reenact §21-11-10 of the Code of West Virginia, 1931, as amended, relating to requiring persons building residential structures to inform the county board of education of the number of units to be constructed and the estimated number of occupants of those structures; and requiring this information be provided before a building permit may be issued.

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

**By Senator Beach:**

**Senate Bill 88**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-1-15, relating to creating the Office of Outdoor Recreation; authorizing the hiring of a director of the office and any other personnel necessary; setting forth the duties of the office; requiring

an annual report to the Legislature; requiring collaboration with the West Virginia Development Office; requiring consultation with the outdoor recreation community; and authorizing the use of appropriated funds for a grant and loan program to further outdoor recreation in the state.

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

**By Senator Beach:**

**Senate Bill 89**—A Bill to amend and reenact §17C-15-26 of the Code of West Virginia, 1931, as amended, relating to safety of tow trucks, wreckers, and tilt-bed vehicles; authorizing red flashing warning lights on said vehicles under certain circumstances; and titling this bill in honor of Jeff Clovis.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senator Rucker:**

**Senate Bill 90**—A Bill to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, all relating to transferring the Safety and Treatment Program, which treats and educates people whose licenses were revoked due to concerns of alcohol and/or drug use while operating a motor vehicle, from the Department of Health and Human Resources to the Division of Motor Vehicles; and amending references thereto in said code.

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

**By Senator Rucker:**

**Senate Bill 91**—A Bill to amend and reenact §3-1-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-2 of said code, all relating to residency requirements for people entitled to vote and people eligible to register to vote; requiring that a person be a legal resident of the state, county, or municipality in which he or she offers to vote; requiring that a

person be a legal resident of the state or county in which he or she applies to register to vote; and defining the term “legal resident”.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Jeffries, Baldwin, and Lindsay:**

**Senate Bill 92**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to providing a special license plate to support adoption; and establishing fees.

Referred to the Committee on the Judiciary.

**By Senator Rucker:**

**Senate Bill 93**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting the State Board of Education from accepting federal education plans without approval of the Legislature.

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

**By Senator Rucker:**

**Senate Bill 94**—A Bill to amend and reenact §17C-5A-3 of the Code of West Virginia, 1931, as amended, relating to the addition of grievance and appellate procedures and judicial review for individuals participating, or who have participated, in the Department of Health and Human Resources’ safety and treatment program; and authorizing the Secretary of the Department of Health and Human Resources to promulgate a rule(s) to add such procedures and judicial review for participants of the safety and treatment program.

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

**By Senator Rucker:**

**Senate Bill 95**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to providing compensation to victims of abusive lawsuits; and providing that a party in a civil action is entitled to

recover attorneys' fees and costs after a court dismisses a claim as lacking any basis in law or fact.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 96**—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.

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

**By Senator Trump:**

**Senate Bill 97**—A Bill to repeal §7-1-3ss of the Code of West Virginia, 1931, as amended; to amend and reenact §11-16-3, §11-16-5, §11-16-6a, §11-16-6b, §11-16-9, and §11-16-18 of said code; to amend said code by adding thereto a new section, designated §11-16-11b; to amend and reenact §60-1-5a of said code; to amend said code by adding thereto a new section, designated §60-2-17a; to amend and reenact §60-3-12 of said code; to amend and reenact §60-3A-18 and §60-3A-25 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto a new section, designated §60-7-8a; to amend and reenact §60-8-3, §60-8-20, and §60-8-34 of said code; and to amend and reenact §61-8-27 of said code, all relating generally to modernizing certain nonintoxicating beer, nonintoxicating craft beer, beer, wine, and liquor laws by permitting certain hours of operation; defining terms; repealing section of the code authorizing county option elections on Sunday sales; removing the two-growler limit per patron per day for licensees who sell growlers for off-premises consumption; increasing allowable growler size to 128 ounces; creating a

sampling license for retailers authorized to sell growlers and setting a fee for the license; placing limitations on complimentary samples; requiring complimentary food be available; setting forth age restrictions; placing restrictions on licensed representatives of a brewer, resident brewer, or distributor who attend sampling events; creating a temporary license for nonintoxicating beer floorplan extensions of existing licensee floorplans; implementing a fee for the new license; implementing a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; creating a one-day special license for certain nonprofit and tax exempt entities hosting artistic, athletic, charitable, educational, or religious events to purchase and sell nonintoxicating beer and nonintoxicating craft beer; providing limitations on special licenses; setting forth requirements for special licenses; setting forth the commissioner's authority; reducing the membership requirement for a private golf club; creating alternating wine proprietorships for wineries and farm wineries; setting forth requirements for the parties to the alternating wine proprietorship agreements; setting forth production standards, including amount of raw West Virginia products which are required to be used; licensure requirements; clarifying that the Alcohol Beverage Control Administration may request the assistance of county and municipal law enforcement; clarifying days and hours for liquor sales; permitting a distillery or mini-distillery to apply, pay the fee, and qualify for a Class A private club license; clarifying types of sales permitted by a distillery or mini-distillery; providing a five percent markup rate for mini-distilleries for sampling; declaring that the mere addition of a mini-distillery does not change the nature or use of agricultural property for building code and property tax classification purposes; clarifying sampling procedures and requirements for wineries and farm wineries; prohibiting the adulteration of any alcoholic liquor by adding liquid designed to increase alcohol content or potency; permitting certain charitable events to auction wine bottles for off-premises consumption; penalties; clarifying that certain West Virginia licensees can only sell liquor by the drink; clarifying certain requirements for licensure; clarifying prohibition on liquor bottle sales in Class A licenses; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink

machines, and prohibiting the sale of premixed alcoholic liquors, with certain exceptions; creating a private club and carryout license with attendant requirements therefor; permitting the sale of wine in Division II and III college stadiums; creating a private fair and festival license; setting forth qualifications for applicants; placing limitations on complimentary samples; requiring complimentary food be available; setting forth age restrictions; placing restrictions on licensed representatives of a brewer, resident brewer, or distributor who attends or operates sampling events; clarifying that private resort hotel licensees may operate a resident brewer and brew pub; authorizing issuance of private club and carryout licenses and establishing criteria and setting a fee therefor; authorizing issuance of private hotel licenses and establishing criteria and fees therefor; setting forth qualifications for applicants; setting a license fee; permitting minors to attend private fairs or festivals under certain conditions; clarifying prohibition against bring your own bottle with exceptions for wine under certain circumstances; directing the commissioner to propose rules for allowing patrons to bring wine into licensed premises and restaurant facilities with an allowance for a corkage fee; stating that any such rule shall not take effect until approved by the Legislature; permitting the commissioner to sanction a licensee for failing to comply with the 48-hour notification requirement; and requiring promulgation of proposed legislative rules.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 98**—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.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 99**—A Bill to amend and reenact §17C-5-2b of the Code of West Virginia, 1931, as amended, relating to deferral of further proceedings for certain first offenses upon condition of participation in Motor Vehicle Alcohol Test and Lock Program; requiring completion of the program within 12 months; requiring defendant who fails to complete program to appear before court; requiring court to terminate deferral and enter an adjudication of guilt; and allowing courts to extend the period for completion of the program for good cause shown.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 100**—A Bill to amend and reenact §30-29-4 of the Code of West Virginia, 1931, as amended, relating to increasing a fee added to the usual court costs of all criminal proceedings; and increasing fee added to the amount of any cash or property bond posted for violation of any criminal law, the proceeds of which are dedicated to the funding of training, professional development, and certification programs for law-enforcement officers and to paying the expenses of the Law-Enforcement Professional Standards Subcommittee.

Referred to the Committee on Finance.

**By Senator Trump:**

**Senate Bill 101**—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.



Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 102**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-19, relating to granting courthouse security officers arrest powers under certain circumstances; authorizing certain West Virginia courthouse security officers to carry concealed firearms while off duty with court approval; setting forth firearm training and qualification requirements; requiring supervising authority to issue photo identification and certification cards; specifying policy content; and stating legislative intent that the new code section be consistent with the federal Law-Enforcement Officers Safety Act.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 103**—A Bill to amend and reenact §29-21-6 and §29-21-13a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-21-9a, all relating generally to Public Defender Services; transferring initial authority to review, approve, modify, or refuse panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission or reconsideration of vouchers previously modified or refused; establishing procedures for handling of modified or refused vouchers; maintaining final authority over payment of vouchers with circuit courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for noncriminal legal services; providing for payment of contracts; authorizing agency to reduce or reject vouchers or requests for payment; requiring panel attorneys to maintain time-keeping records to enable the attorney to determine time expended on a daily basis; authorizing Governor by executive order to borrow funds from the Revenue Shortfall Reserve Fund to pay appointed counsel and establish repayment requirements; requiring Secretary of Administration's clarification that borrowing is necessary; expiring authorization to borrow on January 1, 2021; setting record-keeping standards; requiring prompt processing and

payment of vouchers; revising the rates of compensation for various types of cases; and authorizing the executive director to promulgate emergency rules.

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

**By Senators Trump and Boso:**

**Senate Bill 104**—A Bill to amend and reenact §47-15-1 and §47-15-2 of the Code of West Virginia, 1931, as amended, all relating to pyramid promotional schemes; defining terms; prohibiting pyramid promotional schemes; allowing certain plan or operations which do not cause inventory loading and implement a bona fide inventory repurchase program; specifying requirements for recruiting literature, sales manuals, and contracts; providing that a bona fide inventory repurchase program is not required to apply to certain inventory; and requiring certain disclosures.

Referred to the Committee on the Judiciary.

**By Senator Woelfel:**

**Senate Bill 105**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-5-3a, relating to creating an enhanced penalty for certain aggravated serious traffic offenses; requiring a person to first be convicted of the underlying offense before the enhanced penalty is permitted to be assessed; and prohibiting the enhanced penalty from increasing a misdemeanor offense to a felony offense.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senator Facemire:**

**Senate Bill 106**—A Bill to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating to personal income tax; alleviating double taxation on foreign income at the state level; and sunseting the credit for income tax paid on foreign income in 2068.

Referred to the Committee on Finance.

**By Senators Facemire, Jeffries, and Lindsay:**

**Senate Bill 107**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-3C-16, relating to encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

**By Senators Plymale, Woelfel, Baldwin, and Clements:**

**Senate Bill 108**—A Bill to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-5-6a, §3-5-6b, §3-5-6c, §3-5-6d, and §3-5-7 of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §50-1-1 of said code; to amend and reenact §51-1-1 of said code; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to changing the nonpartisan election of judicial offices to require a person elected during the primary election to receive a majority of votes cast for that office; providing that if no candidate receives a majority of votes cast then the two candidates receiving the highest number of votes are placed on the general election ballot where a winner is determined; applying these changes to the elections of Supreme Court Justices, Circuit Court Judges, Family Court Judges, and Magistrates; clarifying that the primary elections of these officials are not partisan; and adjusting the filling of vacancies in judicial office to ensure a full primary and general election cycle is available for election to an unexpired term so as to eliminate the need for any special election if a candidate does not receive a majority of votes.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 109**—A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to correcting incorrect code reference resulting from recent amendment to said

code exempting certain persons from prohibitions against carrying concealed handguns or deadly weapons on the property of another.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Jeffries, Baldwin, and Lindsay:**

**Senate Bill 110**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the Excess Lottery Fund, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Stollings, Baldwin, Jeffries, and Lindsay:**

**Senate Bill 111**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the Excess Lottery Fund, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Stollings, Jeffries, Lindsay, and Baldwin:**

**Senate Bill 112**—A Bill 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 – Central Office, fund 0407, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Stollings, Baldwin, Jeffries, and Boso:**

**Senate Bill 113**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, and §11-28-3, all relating to creating five-year tax credits for businesses locating on post-coal mine sites; defining terms; setting eligibility requirements for tax credit; establishing amount of tax credit allowed; establishing how the credit may be applied; and providing rule-making authority.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Romano, Jeffries, Baldwin, and Lindsay:**

**Senate Bill 114**—A Bill to amend and reenact §23-4-1f of the Code of West Virginia, 1931, as amended, relating to allowing workers' compensation benefits for first responders diagnosed with post-traumatic stress disorder resulting from an event that occurred during their employment.

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

**By Senators Romano and Baldwin:**

**Senate Bill 115**—A Bill to amend and reenact §3-8-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-8-8a, all relating to requiring certain disclosures of election expenditures; clarifying when contributions are required to be disclosed; creating exceptions; clarifying that certain federal entities must make certain state disclosures; requiring disclosure of covered transfers; stating legislative findings; defining terms; providing requirements for disclosure of donations related to the transfer of certain sums of money related to campaign-related disbursements; requiring certain disclosures be made within 48 hours; specifying information required in the disclosures; clarifying the relationship between covered transfers and other regulated areas of election expenditures; creating a misdemeanor offense; and authorizing rulemaking.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 116**—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9, and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6, and §5-11A-7 of said code, all relating to unlawful discriminatory practices; prohibiting discrimination based upon age or sexual orientation in certain circumstances; adding sexual orientation as a protected class with respect to equal opportunity in employment, public accommodations, and housing accommodations under the authority of the Human Rights Commission and in the Fair Housing Act; adding age as a protected class with respect to housing accommodations under the authority of the Human Rights Commission and in the Fair Housing Act; making stylistic changes; and defining terms.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 117**—A Bill to amend and reenact §7-11B-3, §7-11B-4, and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; and to amend said code by adding thereto a new section, designated §7A-2-5, all relating to incentives for consolidating local governments; amending the definitions of certain terms to include municipalities that successfully consolidated; granting additional powers to governing bodies of municipalities that successfully consolidated; authorizing municipalities that successfully consolidate additional powers related to creation of a development or redevelopment district; allowing consolidation of local governments to include public school districts, library districts, and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; and creating certain incentives for municipalities and counties that form metro governments by consolidation.

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

**By Senators Palumbo, Jeffries, Stollings, Baldwin, and Lindsay:**

**Senate Bill 118**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-

2-2a, relating to creating the Independent Redistricting Commission; designating duties of the commission; providing that members are nominated by State Election Commission; setting forth required traits and restrictions of members; providing for how commission members are appointed; setting forth a process for determining the chair of the commission; providing for the filling of vacancies of commission; requiring members to conduct an organizational meeting and select a vice chairperson; providing for the removal of a member for cause; providing for the filling of vacancies that may occur on commission; setting forth certain requirements of the commission; providing that three members constitute a quorum; providing that members are ineligible for public office or registration as paid lobbyist for three years after completing their last term on commission; requiring that commission plan and propose congressional and legislative districts; providing specific criteria that commission must observe in proposing district mappings; requiring commission to advertise a proposed draft map of districts to the public; permitting legislators to make inquiry of commission members regarding their methodology and proposed redistrict mapping; requiring that commission publish its proposals for district boundaries; requiring the commission to recommend redistricting plans to the Legislature; authorizing a vote on the plans in an extraordinary session called by the Governor; requiring the full Legislature to vote on the first proposal plan ratification without amendment; setting forth a process for subsequent proposed plans, amendment restrictions, and vote requirements; authorizing the West Virginia Supreme Court of Appeals to make the final determination between three plans proposed by the independent redistricting commission if the Legislature and Governor cannot agree; requiring that the commission certify to Secretary of State that its proposals for district boundaries is in accordance with constitutional and legal requirements; providing for reimbursement of expenses and per diem allowances for commission members; authorizing the commission to contract for staffing and consultants; prohibiting certain persons from influencing or attempting to influence district mapping proposals of the commission; and providing for the expiration of commission appointments.

Referred to the Committee on the Judiciary.

**By Senators Trump and Boso:**

**Senate Bill 119**—A Bill to amend and reenact §30-3C-1 and §30-3C-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3C-5, all relating to discovery in certain proceedings; specifying certain health care peer review documents are confidential and not subject to discovery; providing that a person who testifies before a review organization or is a member of a review organization shall not be required to testify or asked about his or her testimony; providing that peer review proceedings, communications, and documents of a review organization are confidential and privileged and shall not be subject to discovery; providing that an individual may be given access to documents used as basis for an adverse professional review action, subject to a protective order as may be appropriate; providing that privilege is not deemed to be waived unless the review organization executes a written waiver; defining terms; and addressing original source materials.

Referred to the Committee on the Judiciary.

**By Senator Romano:**

**Senate Bill 120**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-2a, relating to increasing pay to state employees over a two-year period.

Referred to the Committee on Finance.

**By Senator Romano:**

**Senate Bill 121**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-11-1 and §9-11-2, all relating to providing continued eligibility for developmental disability services to dependents of military service members; defining terms; establishing dependents retention of rights for developmental disability services provided conditions are met; providing dependents be placed on waiting list for services; establishing a process to reestablish services for dependent upon



return to state; prohibiting payment for services rendered outside state; and rulemaking.

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

**By Senators Romano, Baldwin, and Stollings:**

**Senate Bill 122**—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to surcharge on fire and casualty insurance policies for purpose of funding volunteer fire departments; providing that surcharge be increased to one percent beginning January 1, 2020; and deleting obsolete language.

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

**By Senators Romano and Stollings:**

**Senate Bill 123**—A Bill to amend and reenact §60A-4-401 of the Code of West Virginia, 1931, as amended, relating to providing that the penalty for possession of marijuana carries a fine of no more than \$1,000 without confinement.

Referred to the Committee on the Judiciary.

**By Senators Clements, Weld, and Baldwin:**

**Senate Bill 124**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to creating a felony offense for subsequent actions of cruelty to animals that cause bodily injury to, or serious bodily injury or death of, the animal.

Referred to the Committee on the Judiciary.

**By Senator Clements:**

**Senate Bill 125**—A Bill to amend and reenact §18-9A-2 of the Code of West Virginia, 1931, as amended, relating to providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program only.

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

**By Senators Trump and Boso:**

**Senate Bill 126**—A Bill to amend and reenact §19-12E-5 of the Code of West Virginia, 1931, as amended, relating to requiring industrial hemp grower licensees to file a copy of that license with the sheriff of the county where the hemp is to be grown and the local detachment of the West Virginia State Police; and providing that failure to do so renders the license null and void.

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

**By Senator Trump:**

**Senate Bill 127**—A Bill to amend and reenact §62-12-6 of the Code of West Virginia, 1931, as amended, relating to the duty of parole officers to perform such alcohol and drug testing of litigants as directed by the circuit and family courts.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 128**—A Bill to amend and reenact §3-10-5, §3-10-6, §3-10-7, and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to requiring vacancies in the House of Delegates, State Senate, circuit court clerk, county commission, county clerk, prosecuting attorney, sheriff, assessor, or county surveyor be filled by a person affiliated with the same party as the person vacating the office was affiliated at the time of his or her last election to the office or if not elected at the time of his or her appointment.

Referred to the Committee on the Judiciary.

**By Senator Romano:**

**Senate Bill 129**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-3-33c, relating to creating a surcharge on fire and casualty insurance policies in order to relieve the burden from

municipalities and counties of certain fire-related cleanup and demolition; requiring the assessment of a surcharge on certain policies; creating exceptions; setting forth collection and remittance requirements; authorizing penalties; creating the Political Subdivisions Fire Cleanup Relief Fund; permitting municipalities and counties to apply to the Treasurer for a disbursement from the fund; authorizing the Treasurer to disburse funds; and granting rule-making authority.

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

**By Senators Romano and Clements:**

**Senate Bill 130**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22I; and to amend said code by adding thereto a new section, designated §18-7A-26w, all relating to a \$1,000 cost-of-living adjustment to certain retirees of the Public Employees Retirement System and the State Teachers Retirement System by June 30, 2020; and providing for the pro rata distribution of the cost-of-living adjustment to certain beneficiaries.

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

**By Senator Romano:**

**Senate Bill 131**—A Bill to amend and reenact §5G-1-3 of the Code of West Virginia, 1931, as amended, relating to modifying the procedure certain public agencies must take in order to contract for certain architectural and engineering services; requiring joint discussions with prospective architectural or engineering firms in certain situations; permitting contract proposals with a fee for service from the firms; replacing the single entity negotiations with a competitive low bid process; and allowing for the public agency to reject all proposed contracts and seek proposals from additional firms.

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

**By Senators Clements, Lindsay, and Boso:**

**Senate Bill 132**—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 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 authority; limiting the liability of landowners; setting forth purchasing and bidding procedures; providing civil remedies; providing for conflicts of interest; providing criminal penalties; providing for severability; establishing an effective date; and authorizing rulemaking.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senator Ojeda:**

**Senate Bill 133**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2J-1, §5B-2J-2, §5B-2J-3, and §5B-2J-4, all relating to creating the Returning Veterans and Displaced Miners Jobs Act; providing a short title and legislative findings and declaration; establishing a Veterans Job Coordinating Team and composition of the team; setting forth the team's powers and duties, including reporting a plan to the Legislature; and providing for termination of the Veterans Job Coordinating Team unless the Legislature determines otherwise.

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

**By Senator Ojeda:**

**Senate Bill 134**—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended, relating to stabilizing Public Employees Insurance Agency benefits; increasing the severance tax on natural gas; dedicating a portion of the increased severance tax on natural gas to the benefit of public

employee and retiree health care; creating a special revenue revolving fund account entitled the PEIA Fund that is interest-bearing; requiring the increase in the severance tax on natural gas to be deposited into the PEIA Fund; requiring the funds in the PEIA Fund to be used to reduce or maintain deductibles and premiums; and prohibiting expenditures from the PEIA Fund to be used in the calculation of premium cost-sharing.

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

**By Senator Ojeda:**

**Senate Bill 135**—A Bill to amend and reenact §6B-3-2, §6B-3-7, and §6B-3-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §6B-3-3d, all relating to regulation of lobbyists; requiring registered lobbyists to purchase and wear body-mounted cameras at the Capitol and in certain other circumstances; requiring certain certifications be made by registered lobbyists; prohibiting lobbyists from making certain campaign donations; prohibiting lobbyists from loitering in the Capitol with certain exceptions; prohibiting lobbyists from making certain expenditures to benefit legislators; making body-mounted camera video and audio recordings subject to inspection by the Ethics Commission and subject to the provisions of the West Virginia Freedom of Information Act; authorizing random inspections of lobbyist body-mounted cameras; setting certain compliance requirements for lobbyists; creating a misdemeanor offense for failure to comply with certain requests for video and audio from body-mounted cameras; and creating penalties relating to access to the Capitol complex by lobbyists for violation of certain prohibited conduct.

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

**By Senators Palumbo and Baldwin:**

**Senate Bill 136**—A Bill to amend and reenact §16-9A-2 and §16-9A-4 of the Code of West Virginia, 1931, as amended, all relating generally to tobacco usage and e-cigarette restrictions; defining terms; prohibiting e-cigarettes on certain public school

property by persons under the age of 18 at certain times; and increasing the penalty for certain tobacco-related and e-cigarette offenses on public school property.

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

**By Senator Palumbo:**

**Senate Bill 137**—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9, and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6, and §5-11A-7 of said code, all relating to unlawful discriminatory practices in categories covered by the Human Rights Act and the Fair Housing Act; prohibiting discrimination based upon age and sexual orientation, or gender identity; and defining “sexual orientation” and “gender identity”.

Referred to the Committee on the Judiciary.

**By Senator Ojeda:**

**Senate Bill 138**—A Bill to amend and reenact §61-6-21 of the Code of West Virginia, 1931, as amended, relating to prohibiting civil rights violations based on gender identity or sexual orientation; criminal penalties; when evidence of constitutionally protected speech or associations is not admissible in criminal prosecutions; exceptions; providing for sentencing alternatives for persons convicted of violations; and designating amendments to this section as the Justice Through Grace in Communities Act.

Referred to the Committee on the Judiciary.

**By Senator Ojeda:**

**Senate Bill 139**—A Bill to amend and reenact §61-11B-2 and §61-11B-4 of the Code of West Virginia, 1931, as amended, all relating to changing the requisite period necessary to take advantage of criminal offense reduction; amending the definition to reduce the period and create a special period for honorably discharged veterans; adjusting the elements that a petitioner must prove accordingly; and making minor technical cleanup.

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

**By Senator Ojeda:**

**Senate Bill 140**—A Bill to amend and reenact §49-2-905 of the Code of West Virginia, 1931, as amended, relating to requiring correctional officers be paid overtime for all hours worked beyond 40 hours in a one-week work period.

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

**By Senators Ojeda and Stollings:**

**Senate Bill 141**—A Bill to amend and reenact §5H-1-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §8-15-8d; to amend said code by adding thereto a new section, designated §11-21-8i; and to amend and reenact §20-2-28 of said code, all relating to creating the Volunteer Firefighter Appreciation Act of 2019; stating a retroactive effective date for the increase to death benefits; setting forth legislative findings; detailing eligibility and participation requirements for newly created incentives for volunteer firefighters; allowing certain volunteer firefighters to hunt, trap, or fish in season in West Virginia without obtaining a license; allowing certain volunteer firefighters a waiver of fees for a special volunteer firefighter registration plate on his or her primary vehicle used for responding to emergencies; declaring a discount on lodging at state parks for certain volunteer firefighters; authorizing a refundable tax credit for certain volunteer firefighters with respect to certain expenses associated with being a volunteer firefighter; detailing the calculation of the refundable tax credit; setting a cap on the maximum credit permitted per person; stating effective date of the tax credit; authorizing the Tax Commissioner to promulgate procedural rules in order to implement the credit; and detailing the procedure for hunting, trapping, or fishing without a license.

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

**By Senator Ojeda:**

**Senate Bill 142**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-1-10, relating to creating a misdemeanor offense of impersonating a member of the military; setting forth restrictions; and detailing criminal penalty.

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

**By Senator Ojeda:**

**Senate Bill 143**—A Bill to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-4-401 of said code; and to amend said code by adding thereto a new section, designated §60A-4-417, all relating to reducing the criminal penalties and the criminalization of marijuana; removing certain items from Schedule I controlled substances list; and creating new misdemeanor and felony offenses and penalties with respect to marijuana.

Referred to the Committee on the Judiciary.

**By Senators Ojeda and Stollings:**

**Senate Bill 144**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §23-4D-1, §23-4D-2, §23-4D-3, §23-4D-4, §23-4D-5, and §23-4D-6, all relating to creating the West Virginia Black Lung Program; granting entitlement for pain and suffering for occupational pneumoconiosis; providing that 10 years' exposure as a miner is a conclusive presumption of entitlement to pain and suffering benefits; calculation of benefits; tax credit for benefits; imposing additional severance tax and tax on generation of electricity by solar and wind devices; creating the State Black Lung Fund; requiring the Governor and Legislature to cooperate with other states to attempt to recoup the federal excise tax on coal; and granting rule-making authority to the Insurance Commissioner and Tax Commissioner.

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



**By Senator Ojeda:**

**Senate Bill 145**—A Bill to repeal §16A-4-1 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-4 of said code; to amend and reenact §16A-4-2, §16A-4-3, and §16A-4-5 of said code; to amend and reenact §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-1 and §16A-8-2 of said code; to amend and reenact §16A-9-1 of said code; to amend said code by adding thereto two new sections, designated §16A-9-3 and §16A-9-4; to amend and reenact §16A-11-1 of said code; and to amend and reenact §16A-12-8 of said code, all relating to the West Virginia Medical Cannabis Act; amending and removing definitions; defining terms; removing the requirement for practitioners to be registered; allowing data gathering to indicate where a specific form of medical cannabis was not recommended; removing the four-hour training course for physicians; increasing the two-hour training course for principals and employees to eight hours and adding requirements for the training; removing the Freedom of Information Act exemption for practitioner credentials; authorizing the medical cannabis sales in edible and plant-based form; removing the prohibition on smoking medical cannabis; authorizing licensed patients and caregivers to grow medical cannabis under certain restrictions; repealing the section requiring registration of physicians eligible to issue certifications to patients to use medical cannabis; adjusting certification requirements to reflect the removal of the practitioner registry; removing the requirement that other treatments be ineffective before recommending medical cannabis; clarifying the duration of a dosage that may be dispensed; expanding on the requirement that applicants are required to be residents of this state; permitting transfer of permits under certain circumstances; removing the requirement for separate regions associated with medical cannabis dispensaries; repealing the section requiring notice be printed in the State Register; authorizing the commissioner to set a sliding initial fee schedule for growers based on acreage of the farm; setting a maximum fee for growers; allowing a grower or processor to pay their initial fee in two installments; adding additional prior

convictions that result in a prohibition of being affiliated with a medical cannabis registrant; adjusting the current waiver process for persons previously convicted to prohibit certain persons from being eligible for a waiver in certain circumstances; removing the cap on the number of growers, processors, and dispensaries; removing the prohibition on a grower or processor being a dispensary; removing the requirement that a dispensary have a physician or pharmacist onsite at all times and clarifying other requirements; authorizing delivery by a dispensary to a caregiver's residence during certain times but prohibiting delivery to a commercial business and certain temporary housing locations; clarifying that Tax Division of Department of Revenue, along with Bureau for Public Health within the West Virginia Department of Health and Human Resources, will monitor price of medical cannabis; clarifying that Tax Division will administer, collect, and enforce medical cannabis tax; clarifying imposition of tax; detailing imposition of tax with respect to growers or processors that sell to a dispensary in which they have an economic interest; removing the exemption on medical cannabis from the sales tax; permitting exchange of information; providing that information exchanged is not subject to disclosure under Freedom of Information Act; requiring payment of tax by electronic funds transfer; requiring electronic filing of tax returns; authorizing legislative, interpretive, and procedural rules as necessary to implement tax provisions; making tax subject to provisions of West Virginia Tax Crimes and Penalties Act; making tax subject to provisions of the West Virginia Tax Procedure and Administration Act; adding a doctor of osteopathic medicine to the advisory board; removing the ability of the bureau to sanction the registration of a practitioner due to the removal of the requirement to register; and removing the ability of the bureau to order restitution against a registrant.

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

**By Senators Azinger and Boso:**

**Senate Bill 146**—A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to increasing

the penalty for burglary if a crime against another person is committed during the burglary.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 147**—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-16-4 of said code, all relating to shifting funding from the Landfill Closure Assistance Fund to local solid waste authorities.

Referred to the Committee on Finance.

**By Senators Prezioso, Jeffries, Stollings, and Lindsay:**

**Senate Bill 148**—A Bill to amend and reenact §21-11-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §21-11-10b and §21-11-10c, all relating to requiring any newly constructed, state-assisted, detached single-family house, a townhouse, or multilevel dwelling unit, whether detached or attached to other units or structures, or a ground floor unit in a building of three or fewer dwelling units, to meet minimum standards of universal design for persons with disabilities.

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

**By Senators Azinger and Weld:**

**Senate Bill 149**—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to dangerous weapons; license to carry deadly weapons; and exempting honorably discharged veterans of the armed forces of the United States from payment of fees and costs required to get a license to carry deadly weapons.

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

**By Senator Boso:**

**Senate Joint Resolution 1**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; defining a term; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senator Boso:**

**Senate Joint Resolution 2**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating generally to the supervision of free schools; clarifying that the general supervisory authority of the State Board of Education is subject to legislative enactments; specifying that board rules and policies are subject to legislative review and approval; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Sypolt, Baldwin, Plymale, and Boso:**

**Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to homestead exemption increase; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Sypolt, Boso, and Baldwin:**

**Senate Joint Resolution 4**—Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article III thereof, relating to protecting the electronic communication and data of citizens from unreasonable searches and seizures; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Trump and Boso:**

**Senate Joint Resolution 5**—Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the impeachment of officials; providing that courts have no authority or jurisdiction to intercede in or interfere with impeachment proceedings of the House of Delegates or the Senate; specifying that a judgment rendered by the Senate following an impeachment trial is not reviewable in any court of this state; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Woelfel and Baldwin:**

**Senate Joint Resolution 6**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article VIII thereof, relating to the term length of Supreme Court justices; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senator Cline offered the following resolution:

**Senate Concurrent Resolution 3**—Requesting the Joint Committee on Government and Finance study issues relating to common practice by child care facilities to require payment to hold space for services being required at a future date for newborn babies and the impact on parents without paid parental leave.

Whereas, There exists in West Virginia a shortage of low-cost, affordable child care services; and

Whereas, Parents expecting new babies often seek to reserve space for enrollment in a child care facility; and

Whereas, It is often not possible to predict the exact time child care may be required by working parents with new babies; and

Whereas, Many working parents seeking child care services do not have paid leave for time off with a new baby, thereby forcing some parents to return to work sooner than planned after babies are born to avoid being off work without pay and having to pay for unused child care services at the same time; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the negative impacts of a shortage of affordable child care on the health and welfare of infants born to working parents and the stress on new parents who may have to shorten planned time off from work with a new baby in order to secure a child care reservation; and be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 a study, prepare reports, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Swope offered the following resolution:

**Senate Concurrent Resolution 4**—Requesting the Division of Highways name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U. S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road”.

Whereas, Dennis Ray Blankenship was born January 8, 1938, in Bartley, McDowell County, West Virginia; and

Whereas, Dennis Ray Blankenship served as a Lieutenant Colonel in the United States Marine Corps during the Vietnam War; and

Whereas, Lt. Col. Dennis Ray Blankenship was highly decorated for his conspicuous gallantry and intrepidity in action; and

Whereas, Naming a portion of road in McDowell County is an appropriate recognition of his service and sacrifices for his country, his state, his community and McDowell County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U. S. Marine Corps Lt. Col. Dennis Ray Blankenship 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 “U. S. Marine Corps Lt. Col. Dennis Ray Blankenship 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.

Senators Cline and Plymale offered the following resolution:

**Senate Concurrent Resolution 5**—Requesting the Division of Highways to place signs at the following Interstate exits in Beckley: I-77 north bound at mile marker 42.5, I-77 south bound at mile marker 47.8, and I-64 west bound at mile marker 125.2, in Raleigh County, West Virginia, signifying Beckley as the “Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions”.

Whereas, Coach Bob Bolen was born August 28, 1963, in Beckley; and

Whereas, From 1986 to 1988, Coach Bolen was a mathematics teacher and head boys’ basketball coach at Park School in Beckley, where his record was 31-5 and they were regular season champions; and

Whereas, From 1989 to 1993, Coach Bolen was head coach, junior varsity/assistant varsity at Woodrow Wilson High School in Beckley, where in 1990, 1992, and 1993 they were AAA state champions; and

Whereas, From 1993 to 2012, Coach Bolen was director of athletics and head men’s basketball coach at Mountain State University in Beckley. From 2013 to 2015, he was assistant basketball coach at East Tennessee State University. Beginning in 2015 to the present, he has served as an ESPN analyst and Marshall University TV analyst; and

Whereas, Coach Bolen was head coach of the only national championship won by a men’s basketball team in West Virginia in the last 71 years. He holds the most all-time wins for a collegiate coach in West Virginia, with 489 wins. He has the highest winning percentage of any coach at any collegiate level this decade, winning 87 percent of his games; and

Whereas, Coach Bolen’s record includes: A career record 489 wins with 125 losses; 2010 NABC NAIA National Coach of the Year; 2004 NABC NAIA National Coach of the Year; 2004 West Virginia College Coach of the Year; 2004 Basketball Times National Coach of the Year; Regional Independent Coach of the year, 13 times; ranked number one 48 times since 2000 NAIA National Poll; forty-nine consecutive weeks ranked in the top five in the country; twelve consecutive 25-win seasons, 2001 – 2012;



number one scoring offense in country, six times; top five scoring offense in country for 17 consecutive seasons; and number one field goal percentage defense, three times; and

Whereas, Coach Bolen's collegiate yearly records are:

2011 – 2012	26-9 Record, NAIA Final Four
2010 – 2011	33-4 Record, NAIA National Tournament Runner Up
2009 – 2010	29-3 Record, #3 NAIA Final National Poll, NAIA "Sweet 16"
2008 – 2009	28-5 Record, #3 NAIA Final National Poll, NAIA "Sweet 16"
2007 – 2008	34-3 Record, NAIA National Tournament Runner Up
2006 – 2007	27-6 Record, #4 NAIA Final National Poll;
2005 – 2006	29-3 Record, #1 NAIA Final National Poll, NAIA "Sweet 16"
2004 – 2005	31-4 Record, #1 NAIA Final National Poll, NAIA "Elite 8"
2003 – 2004	38-1 Record, NAIA National Champions
2002 – 2003	32-7 Record, NAIA National Tournament Runner Up
2001 – 2002	27-6 Record, #5 NAIA Final National Poll, "Sweet 16"
2000 – 2001	25-5 Record, #6 NAIA Final National Poll
1999 – 2000	22-9 Record, #20 NAIA Final National Poll
1998 – 1999	29-6 Record, #12 NAIA Final National Poll, "Sweet 16"
1994 – 1998	79-54 Record, #22 NAIA Final National Poll; and

Whereas, It is fitting that signs be placed at those Beckley exits proclaiming that Beckley is Coach Bolen's hometown, a man who brought national attention to his city and his state and touched the lives of many athletes, students, fans, and residents of Beckley; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to place signs at the following Interstate exits in Beckley: I-77 north bound at mile marker 42.5, I-77 south bound at mile marker 47.8, and I-64 west bound at mile marker 125.2, in Raleigh County, West Virginia, signifying Beckley as the “Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying Beckley as the “Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions”; 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.

### **Petitions**

Senator Trump presented a petition from Teresa Mobley and 100 West Virginia residents, requesting the Legislature to fund and support various programs for Alzheimer’s disease patients.

Referred to the Committee on Finance.

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

On motion of Senator Takubo, at 1:03 p.m., the Senate recessed until 1:15 p.m. today.

The Senate reconvened at 1:21 p.m. and 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 adoption of

**Senate Concurrent Resolution 1**, Adopting joint rules of Senate and House of Delegates.

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

**Senate Concurrent Resolution 2**, Relating to payment of expenses of 84th Legislature.

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 1**—Extending an invitation to His Excellency, the Governor, to deliver an address to the Legislature and raising a Joint Assembly therefor.

Whereas, His Excellency, the Governor, has advised that he will be pleased to address a Joint Assembly of the Senate and House of Delegates at the convenience of the two houses; therefore, be it

*Resolved by the Legislature of West Virginia:*

That His Excellency, the Governor, be hereby invited to address a Joint Assembly of the Legislature at 7:00 o'clock postmeridian this day; and, be it

*Further Resolved*, That the President of the Senate and the Speaker of the House of Delegates appoint three members of each of the respective houses of the Legislature as a committee to wait upon His Excellency, the Governor, and escort him into the Hall of the House of Delegates at the time herein appointed for hearing the address.

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

Delegates Storch, Harshbarger, and Byrd.

At the request of Senator Takubo, 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.

Whereupon, the President appointed as Senate members of such committee, authorized by the foregoing resolution, the following:

Senators Takubo, Boley, and Prezioso.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:25 p.m., the Senate recessed until 6:45 p.m. today.

The Senate reconvened at 6:48 p.m.

The hour of 7 p.m. having arrived, that being the time set for the joint assembly to hear the address of His Excellency, the Governor, the Senate recessed until five minutes after adjournment of the joint assembly. Members of the Senate then repaired in a body to the hall of the House of Delegates.

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(NOTE: For formal procedure in the joint assembly, see the Journal of the House of Delegates for this day. For the State of the State address of His Excellency, the Governor, the Honorable Jim Justice, as provided electronically by the Governor's office, see the Appendix to the Journal of the Senate, page 3539.)

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The joint assembly having been dissolved, the Senate returned to its chamber and resumed its regular session.

### **Executive Communications**

Senator Carmichael (Mr. President) presented the following communication from His Excellency, the Governor, submitting the executive budget and annual budget bill, which was received and read by the Clerk:



*Jim Justice*  
*Governor of West Virginia*

January 9, 2019

EXECUTIVE MESSAGE NO. 1  
FIRST REGULAR SESSION

The Honorable Mitch Carmichael  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear President Carmichael:

I herewith submit, pursuant to the Constitution of the State of West Virginia, a budget and budget bill for the fiscal year beginning July 1, 2019.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice  
Governor

JJ/lc

Subsequently, Senator Carmichael (Mr. President) laid before the Senate the aforementioned annual budget bill,

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 150**—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

Which was read by its title and referred to the Committee on Finance.

At the request of Senator Takubo, and by unanimous consent, a leave of absence for the day was granted Senator Maroney.

Senator Carmichael (Mr. President) announced appointment of the standing committees of the Senate for this first session of the eighty-fourth Legislature and, at the request of Senator Takubo, and by unanimous consent, the complete list was ordered printed in the Journal as follows:

**STANDING COMMITTEES OF THE SENATE**

**2019**

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**AGRICULTURE AND RURAL DEVELOPMENT**

Senators Sypolt (*Chair*), Mann (*Vice Chair*), Clements, Cline, Maynard, Rucker, Smith, Baldwin, Beach, Ojeda, and Unger.

**BANKING AND INSURANCE**

Senators Azinger (*Chair*), Clements (*Vice Chair*), Blair, Hamilton, Rucker, Swope, Tarr, Weld, Facemire, Jeffries, Palumbo, Prezioso, and Romano.

**CONFIRMATIONS**

Senators Boley (*Chair*), Takubo (*Vice Chair*), Azinger, Blair, Boso, Weld, Palumbo, Plymale, and Prezioso.

## **ECONOMIC DEVELOPMENT**

Senators Maynard (*Chair*), Swope (*Vice Chair*), Azinger, Cline, Hamilton, Mann, Roberts, Tarr, Baldwin, Ihlenfeld, Jeffries, Romano, Stollings, and Woelfel.

## **EDUCATION**

Senators Rucker (*Chair*), Blair (*Vice Chair*), Azinger, Boley, Cline, Maynard, Roberts, Trump, Baldwin, Beach, Plymale, Romano, Stollings, and Unger.

## **ENERGY, INDUSTRY, AND MINING**

Senators Smith (*Chair*), Sypolt (*Vice Chair*), Boley, Clements, Cline, Hamilton, Mann, Swope, Facemire, Ihlenfeld, Jeffries, Lindsay, and Woelfel.

## **ENROLLED BILLS**

Senators Maynard (*Chair*), Roberts (*Vice Chair*), Tarr, Lindsay, and Woelfel.

## **FINANCE**

Senators Blair (*Chair*), Mann (*Vice Chair*), Boley, Hamilton, Maroney, Roberts, Swope, Sypolt, Takubo, Tarr, Facemire, Ihlenfeld, Palumbo, Plymale, Prezioso, Stollings, and Unger.

## **GOVERNMENT ORGANIZATION**

Senators Boso (*Chair*), Swope (*Vice Chair*), Clements, Mann, Maroney, Smith, Sypolt, Tarr, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, and Woelfel.

## **HEALTH AND HUMAN RESOURCES**

Senators Maroney (*Chair*), Tarr (*Vice Chair*), Azinger, Maynard, Roberts, Rucker, Takubo, Weld, Palumbo, Plymale, Prezioso, Stollings, and Unger.

## INTERSTATE COOPERATION

Senators Cline (*Chair*), Maynard (*Vice Chair*), Boso, Hamilton, Ihlenfeld, Ojeda, and Unger.

## JUDICIARY

Senators Trump (*Chair*), Weld (*Vice Chair*), Azinger, Boso, Clements, Cline, Maynard, Rucker, Smith, Takubo, Baldwin, Beach, Jeffries, Lindsay, Ojeda, Romano, and Woelfel.

## MILITARY

Senators Weld (*Chair*), Maroney (*Vice Chair*), Cline, Hamilton, Smith, Sypolt, Facemire, Lindsay, and Ojeda.

## NATURAL RESOURCES

Senators Maynard (*Chair*), Mann (*Vice Chair*), Cline, Hamilton, Roberts, Rucker, Smith, Sypolt, Beach, Facemire, Ojeda, Prezioso, and Stollings.

## PENSIONS

Senators Azinger (*Chair*), Hamilton (*Vice Chair*), Boso, Trump, Ihlenfeld, Plymale, and Romano.

## RULES

Senators Carmichael (*Chair*), Blair, Boley, Maroney, Sypolt, Takubo, Trump, Palumbo, Plymale, Prezioso, and Stollings.

## TRANSPORTATION AND INFRASTRUCTURE

Senators Clements (*Chair*), Swope (*Vice Chair*), Boley, Boso, Mann, Roberts, Beach, Jeffries, and Plymale.

## WORKFORCE

Senators Swope (*Chair*), Weld (*Vice Chair*), Boley, Maroney, Rucker, Smith, Tarr, Baldwin, Beach, Jeffries, and Stollings.

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The President then announced the appointment of Senator Takubo, of the County of Kanawha, as the majority leader of the Senate;

Senator Prezioso, of the County of Marion, as the minority leader of the Senate;

Senator Weld, of the County of Brooke, as the majority whip of the Senate;

Senator Palumbo, of the County of Kanawha, as the minority whip of the Senate;

And,

Senator Boley, of the County of Pleasants, as President *pro Tempore* of the Senate.

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On motion of Senator Takubo, at 8:20 p.m., the Senate adjourned until tomorrow, Thursday, January 10, 2019, at 11 a.m.

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## THURSDAY, JANUARY 10, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by Bishop Martin Townsend, Retired Episcopal Bishop, Fort Ashby, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Patricia Puertas Rucker, a senator from the sixteenth district.

Pending the reading of the Journal of Wednesday, January 9, 2019,

At the request of Senator Prezioso, 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:

Accountancy, Board of (§30-1-12)

Acupuncture, Board of (§30-1-12)

Administration, Department of (State Building Commission Fund Activities) (§5-6-1)

Architects, Board of (§30-1-12)

Barbers and Cosmetologists, Board of (§30-1-12)

Counseling, Board of Examiners in (§30-1-12)

Health and Human Resources, Department of

Breast and Cervical Cancer Screening Program (§16-33-6)

Commission for the Deaf and Hard of Hearing (§5-14-9)

Sudden Unexplained Infant Deaths (§16-1-6)

Youth Services (§49-2-1006)

Insurance Commissioner, Office of the (Office of the Consumer Advocate) (§33-2-16)

James “Tiger” Morton Catastrophic Illness Commission (§16-5Q-2)

Landscape Architects, Board of (§30-1-12)

Legislative Rule-Making Review Committee (§29A-3-12)

Massage Therapy Licensure Board (§30-1-12)

Personnel, Division of (§29-6-7)

Pharmacy, Board of (§30-1-12)

Physical Therapy, Board of (§30-1-12)

Protective Services, Division of (Monthly Report) (§15-2D-3)

Psychologists, Board of Examiners of (§30-1-12)

Real Estate Appraiser Licensing and Certification Board (§30-1-12)

Registered Professional Nurses, Board of Examiners for (§30-1-12)

Social Work, Board of (§30-1-12)

Speech-Language Pathology and Audiology, Board of Examiners for (§30-1-12)

Treasury Investments, Board of (Comprehensive Annual Financial Report) (§12-6-6)

Women's Commission (§29-20-6)

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills and joint resolution were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Baldwin, Palumbo, Takubo, Stollings, Jeffries, and Lindsay:**

**Senate Bill 151**—A Bill to amend and reenact §5B-2-15 of the Code of West Virginia, 1931, as amended, relating to the Upper Kanawha Valley Resiliency and Revitalization Program; extending the length of the program; clarifying the reporting requirements for the program; removing certain language regarding funding; and requiring an assessment of the option of establishing or maintaining schools jointly pursuant to authority granted in said code.

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

**By Senators Jeffries, Baldwin, Stollings, Woelfel, and Lindsay:**

**Senate Bill 152**—A Bill to amend and reenact §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5 of the Code of West Virginia, 1931, as amended, all relating to criminal offense expungement; changing current law related to offense reduction to instead apply as an expungement; amending definitions; clarifying that the petition may be used for more than one offense arising from the same act or occurrence; reducing the requisite time period required to wait before filing a petition; permitting the petition to be used to expunge certain misdemeanor offenses; and clarifying throughout that if the court grants the petition then the criminal offense is expunged.

Referred to the Committee on the Judiciary.

**By Senators Jeffries, Stollings, Lindsay, Clements, Smith, Baldwin, Plymale, Ihlenfeld, Hamilton, and Boso:**

**Senate Bill 153**—A Bill to amend and reenact §31-15A-10 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure and Jobs Development Council; increasing the percentage of the infrastructure fund that may be used for grants; providing authority to transfer additional funds designated to loans on to the grant program under certain circumstances; clarifying how funding assistance may be spent; and increasing the cap on annual spending that may be made on the preapplication process to project sponsors.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Jeffries, Baldwin, Stollings, Lindsay, Plymale, Hamilton, and Boso:**

**Senate Bill 154**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-13d, relating to the use of school facilities for memorial services; recognizing schools are integral parts of communities and

the death of certain community members can have a significant impact on communities; allowing school facilities to be used for funeral and memorial services of certain community members; permitting county boards of education to establish a process for requesting the use of school facilities for funeral and memorial services; providing that county boards of education are not responsible for additional costs associated with such funeral and memorial services that are held at school facilities; and clarifying that such funeral and memorial services that are held at school facilities are not to disrupt or interfere with classroom instruction or other scheduled school event or activity.

Referred to the Committee on Education.

**By Senator Ojeda:**

**Senate Bill 155**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15d, relating to authorizing retirement for corrections officers after 25 years of service.

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

**By Senator Ojeda:**

**Senate Bill 156**—A Bill to amend and reenact §21-5F-1, §21-5F-2, §21-5F-3, and §21-5F-4 of the Code of West Virginia, 1931, as amended, all relating to amending the West Virginia Nurse Overtime and Patient Safety Act to include nurses employed in nursing homes as well as those employed in hospitals; establishing limits on hours such nurses may be mandated to work by their employers; and establishing enforcement offenses, penalties, and a private cause of action for violations.

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

[CLERK'S NOTE: Senate Bill 157 through Senate Bill 230 are recommended for introduction by the Legislative Rule-Making Review Committee.]

**By Senator Maynard:**

**Senate Bill 157**—A Bill to amend and reenact §64-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to purchasing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 158**—A Bill to amend and reenact §64-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to state-owned vehicles.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 159**—A Bill to amend and reenact §64-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to leasing of space and acquisition of real property on behalf of state spending units.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 160**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards.

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

**By Senator Maynard:**

**Senate Bill 161**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources.

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

**By Senator Maynard:**

**Senate Bill 162**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities.

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

**By Senator Maynard:**

**Senate Bill 163**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants.

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

**By Senator Maynard:**

**Senate Bill 164**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for determining conformity of transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Laws to applicable air quality implementation plans (transportation conformity).

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

**By Senator Maynard:**

**Senate Bill 165**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a

legislative rule relating to provisions for determination of compliance with air quality management rules.

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

**By Senator Maynard:**

**Senate Bill 166**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to cross-state air pollution rule to control annual nitrogen oxides emission, annual sulfur dioxide emissions, and ozone season nitrogen oxides emissions.

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

**By Senator Maynard:**

**Senate Bill 167**—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards.

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

**By Senator Maynard:**

**Senate Bill 168**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure.

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

**By Senator Maynard:**

**Senate Bill 169**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to assisted living residences.



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

**By Senator Maynard:**

**Senate Bill 170**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments.

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

**By Senator Maynard:**

**Senate Bill 171**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food manufacturing facilities.

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

**By Senator Maynard:**

**Senate Bill 172**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to newborn screening system.

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

**By Senator Maynard:**

**Senate Bill 173**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.

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

**By Senator Maynard:**

**Senate Bill 174**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management clinic licensure.

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

**By Senator Maynard:**

**Senate Bill 175**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to collection and exchange of data related to overdoses.

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

**By Senator Maynard:**

**Senate Bill 176**—A Bill to amend and reenact §64-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Health Care Authority to promulgate a legislative rule relating to cooperative agreement approval and compliance.

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

**By Senator Maynard:**

**Senate Bill 177**—A Bill to amend and reenact §64-6-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Fire Commission to promulgate a legislative rule relating to State Building Code.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 178**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Lottery Commission to promulgate a legislative rule relating to West Virginia Lottery sports wagering rule.

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

**By Senator Maynard:**

**Senate Bill 179**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 180**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to payment of taxes by electronic funds transfer.

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

**By Senator Maynard:**

**Senate Bill 181**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to aircraft operated under a fractional ownership program.

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

**By Senator Maynard:**

**Senate Bill 182**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to senior citizen tax credit for property taxes paid.

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

**By Senator Maynard:**

**Senate Bill 183**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to administration of tax on purchases of wine and liquor inside and outside of municipalities.

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

**By Senator Maynard:**

**Senate Bill 184**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between Tax Division and Division of Environmental Protection.

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

**By Senator Maynard:**

**Senate Bill 185**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Division and the Alcohol Beverage Control Administration.

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

**By Senator Maynard:**

**Senate Bill 186**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information pursuant to written agreement.

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

**By Senator Maynard:**

**Senate Bill 187**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs, and the Office of the Governor.

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

**By Senator Maynard:**

**Senate Bill 188**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Department and the West Virginia Lottery.

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

**By Senator Maynard:**

**Senate Bill 189**—A Bill to amend and reenact §64-7-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Department and the Office of the State Fire Marshal.

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

**By Senator Maynard:**

**Senate Bill 190**—A Bill to amend and reenact §64-8-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Highways to promulgate a legislative rule relating to employment procedures.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 191**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 192**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 193**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to rural rehabilitation loan program.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 194**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 195**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farm-to-food bank tax credit.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 196**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to agritourism.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 197**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 198**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification program.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 199**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 200**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 201**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatric physicians; and surgeons.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 202**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Medicine to promulgate a legislative rule relating to permitting and disciplinary procedures: educational permits for graduate medical interns, residents, and fellows.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 203**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 204**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 205**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing



the Board of Pharmacy to promulgate a legislative rule relating to board of pharmacy rules for registration of pharmacy technicians.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 206**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 207**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 208**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to rules for the substitution of biological pharmaceuticals.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 209**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 210**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

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.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 211**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure, and conduct constituting professional misconduct.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 212**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to advanced practice registered nurse.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 213**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to standards for scope of professional nursing practice.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 214**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to fees for services rendered

by the board and supplemental renewal fee for the Center for Nursing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 215**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to dialysis technicians.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 216**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to filing and formatting rules and related documents and other documents for publication in the State Register.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 217**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to loan and grant programs under the Help America Vote Act for the purchase of voting equipment, election systems, software, services, and upgrades.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 218**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to early voting in-person satellite precincts.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 219**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Secretary of State to promulgate a legislative rule relating to notaries public.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 220**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 221**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Social Work to promulgate a legislative rule relating to code of ethics.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 222**—A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Treasurer's Office to promulgate a legislative rule relating to reporting and claiming unknown and unlocatable interest owners reserved interests.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 223**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 224**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Division of Labor to promulgate a legislative rule relating to child labor.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 225**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to regulation of heating, ventilating, and cooling work.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 226**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules and regulations governing the safety of those employed in and around surface mines in West Virginia.

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

**By Senator Maynard:**

**Senate Bill 227**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules and regulations governing the submission and approval of a comprehensive mine safety program for coal mining operations in the State of West Virginia.

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

**By Senator Maynard:**

**Senate Bill 228**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules for operating diesel equipment in underground mines in West Virginia.

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

**By Senator Maynard:**

**Senate Bill 229**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters.

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

**By Senator Maynard:**

**Senate Bill 230**—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to rules for Cabwaylingo State Forest trail system two-year pilot project permitting ATVs and ORVs.

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

**By Senator Hamilton:**

**Senate Bill 231**—A Bill to amend and reenact §5-10-52 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Public Employees Retirement Act; and the manner of calculating benefits for certain members of the Legislature.

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

**By Senators Hamilton, Baldwin, and Cline:**

**Senate Bill 232**—A Bill to amend and reenact §17C-14-9a of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-15-26 of said code; and to amend and reenact §24A-2-2b of said code, all relating to emergency vehicles; increasing penalties for failure to use due caution when approaching an emergency vehicle while using emergency signals; authorizing the use of red flashing lights by tow trucks and wreckers; and providing that Public Service Commission publish guidelines for

use of certain safety equipment and a fee schedule for use of secondary vehicle.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Hamilton and Cline:**

**Senate Bill 233**—A Bill to amend and reenact §7-14-8 of the Code of West Virginia, 1931, as amended, relating to the age requirements of persons for the position of deputy sheriff.

Referred to the Committee on Government Organization.

**By Senators Azinger and Cline:**

**Senate Bill 234**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9a, relating to requiring all schools provide an elective course on Hebrew Scriptures, Old Testament of the Bible, or New Testament of the Bible; stating a purpose; permitting students to use a translation of their choice; requiring teacher certification; and requiring federal and state laws be followed regarding religious neutrality while accommodating the diverse religious views of students.

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

**By Senators Azinger and Cline:**

**Senate Bill 235**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-7a, relating to making it a felony to attempt to kill another person; and establishing a penalty.

Referred to the Committee on the Judiciary.

**By Senators Lindsay, Jeffries, and Baldwin:**

**Senate Bill 236**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-12-30, relating to notification of the renewed right to vote for a person previously under conviction of treason, felony, or bribery in an election; requiring such persons to be notified within one

week of completing their full punishment or receiving a pardon; and detailing which agencies are responsible for providing the notice.

Referred to the Committee on the Judiciary.

**By Senators Jeffries, Cline, and Baldwin:**

**Senate Bill 237**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3C-1, §15-3C-2, §15-3C-3, §15-3C-4, §15-3C-5, and §15-3C-6; and to amend and reenact §61-5-17 of said code, all relating to improving the ability of law enforcement to locate and return missing persons; establishing short title; declaring findings; defining terms; setting forth details of process for filing a missing persons report; detailing actions that must be taken by law enforcement upon filing of a missing persons report; authorizing reporting and obtaining of additional information under certain circumstances; improving the identification of human remains; improving the timely information and notification to family members of missing persons; authorizing expeditious record exchanges between national and state databases related to missing and unidentified persons; and creating a criminal offense of filing a false missing persons report.

Referred to the Committee on the Judiciary.

**By Senators Baldwin, Cline, Jeffries, and Lindsay:**

**Senate Bill 238**—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing fines for passing a stopped school bus; lengthening license suspension for said offense; and providing for exterior cameras on all new county school buses.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Baldwin and Jeffries:**

**Senate Bill 239**—A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to mobility impairment identifying documents.



Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Maynard, Trump, Cline, and Swope:**

**Senate Bill 240**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6, §64-12-7, and §64-12-8, all relating generally to repealing certain legislative rules promulgated by certain agencies, boards, and commissions which are no longer authorized or are obsolete; authorizing certain agencies and commissions under the Department of Administration, Department of Environmental Protection, West Virginia Community and Technical Education Council, Department of Military Affairs and Public Safety, Department of Tax and Revenue, Department of Transportation, miscellaneous agencies, boards, and commissions, and the Bureau of Commerce to repeal certain legislative rules; repealing the Department of Administration legislative rule relating to the state Purchasing Card Program; repealing the Department of Environmental Protection legislative rule relating to abandoned mine lands reclamation; repealing the Department of Environmental Protection legislative rule relating to certification of gas wells; repealing the Community and Technical College Education legislative rule relating to human resources administration; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to criteria and procedures for determination of projected cost per day for inmates incarcerated in regional jails operated by the authority; repealing the Insurance Commission legislative rule relating to health insurance benefits for temporomandibular and craniomandibular disorders; repealing the Insurance Commission legislative rule relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies; repealing the Insurance Commission legislative rule relating to emergency medical services; repealing the Insurance Commission legislative rule relating to external review of coverage denials; repealing the Insurance Commission legislative rule relating to mental health parity; repealing Insurance Commission legislative rule relating to small employer eligibility requirements; repealing the Division of Motor Vehicles legislative rule relating to eligibility for

reinstatement following suspension or revocation of driving privileges; repealing the Board of Social Work legislative rule relating to applications; repealing the Division of Labor legislative rule relating to hazardous chemical substances; and repealing the Division of Labor legislative rule relating to Safety Glazing Act.

Referred to the Committee on the Judiciary.

**By Senators Weld, Cline, Hamilton, and Baldwin:**

**Senate Bill 241**—A Bill to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating to recording of writings to be recorded under the direction of the county clerk; and permitting the clerk, with written authorization from the state Department of History and Archive, to scan certain documents in electronic form rather than in well-bound books.

Referred to the Committee on Government Organization.

**By Senators Weld and Cline:**

**Senate Bill 242**—A Bill to amend and reenact §36-3-5 of the Code of West Virginia, 1931, as amended, relating to the form of deeds; and requiring a notarized acknowledgement on a deed by a grantee accepting the conveyance.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 243**—A Bill to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended, relating to the requirement that a racetrack must have participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1999, in order for counties to receive two percent of the net terminal income where the video lottery terminals are located.

Referred to the Committee on Finance.

**By Senator Weld:**

**Senate Bill 244**—A Bill to amend and reenact §11-22-1 of the Code of West Virginia, 1931, as amended, relating to definitions in excise tax on privilege of transferring real property.

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

**By Senators Weld, Baldwin, Cline, Jeffries, Clements, and Ihlenfeld:**

**Senate Bill 245**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to cruelty to animals; creating the felony offense of aggravated cruelty to animals; providing a criminal penalty for the offense; and defining a term.

Referred to the Committee on the Judiciary.

**By Senators Weld and Cline:**

**Senate Bill 246**—A Bill to amend and reenact §44-2-1 of the Code of West Virginia, 1931, as amended, relating to appraisement of a decedents' estate and proceedings which determine if reference to fiduciary commissioner is to be made; and adding language to be contained in an appraisement showing nonprobate assets that are not to be sold by the personal representative of the estate.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 247**—A Bill to amend and reenact §55-2-5 of the Code of West Virginia, 1931, as amended, relating to limitation of actions and suits; and amending the time frames for enforcement of certain liens reserved by conveyance or created by deed of trust or mortgage on real estate.

Referred to the Committee on the Judiciary.

**By Senators Weld and Cline:**

**Senate Bill 248**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-4A-1, §7-4A-2, §7-4A-3, §7-4A-4, §7-4A-5, §7-4A-6, §7-4A-7, §7-4A-8, §7-4A-9, and §7-4A-10, all relating to creating the Prosecuting Attorney's Detectives Act; providing a short title; making legislative findings; providing for law-enforcement titles; setting forth the duties and powers of detectives; providing for

compensation of detectives; permitting prosecuting attorneys to hire detectives; establishing arrest power of detectives; setting forth requirements; limiting off-duty employment; and providing miscellaneous provisions.

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

**By Senator Weld:**

**Senate Bill 249**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-1-6a, relating to the administration of estates and trusts; creating a limited letter of administration that may be issued for estates that do not exceed the value of \$2,000; and establishing procedures and responsibilities relating to a limited letter of administration.

Referred to the Committee on the Judiciary.

**By Senators Baldwin and Lindsay:**

**Senate Bill 250**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5H-1, §16-5H-2, §16-5H-3, §16-5H-4, §16-5H-5, and §16-5H-6, all relating to creating the Wholesale Prescription Drug Importation Program; setting requirements for the design of the program; setting certain deadlines for the implementation of the program; requiring monitoring for anticompetitive behavior; ensuring compliance with federal law; requiring a plan for program financing to be provided to the Joint Committee on Government and Finance; authorizing emergency rule-making authority; providing for certain implementation requirements; and requiring annual reporting to the Legislature.

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

**By Senators Baldwin and Jeffries:**

**Senate Bill 251**—A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-6 and §3-9-9 of said code, all relating to adjusting the distance from a polling place that certain electioneering and

election-related activity is prohibited; making legislative findings and justifications for the changes; and ensuring consistency in the law with respect to application of the distances within which certain conduct is prohibited at polling places.

Referred to the Committee on the Judiciary.

**By Senators Ojeda and Sypolt:**

**Senate Joint Resolution 7**—Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article IV thereof, relating to removal of officials; authorizing the recall of any elected official for any reason; requiring the Legislature to enact laws to implement the recall procedure; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Smith, Sypolt, Cline, Lindsay, Plymale, Weld, and Trump offered the following resolution:

**Senate Resolution 6**—Recognizing the service of Clifton E. Brooks, Sr., native of Keyser, West Virginia, World War II veteran, and member of the Tuskegee Airmen.

Whereas, Clifton E. Brooks, Sr., is a native of Keyser, West Virginia, in Mineral County; and

Whereas, Clifton E. Brooks, Sr. served his country during World War II as a cryptographer with the Tuskegee Airmen, sending out codes to keep their missions a secret; and

Whereas, In 2007, Clifton E. Brooks, Sr., was awarded the Congressional Gold Medal, the highest expression of national appreciation which can be bestowed by the United States Congress for distinguished achievements and contributions by individuals or institutions; and

Whereas, For his historic and dedicated service to his country and state, Clifton E. Brooks, Sr. was most recently recognized locally by the City of Keyser, by renaming the South End Park as Brooks Park; and

Whereas, Clifton E. Brooks, Sr., is of the Greatest Generation and is responsible for helping generations of West Virginians develop their values of personal responsibility, duty, honor, and faith; and

Whereas, Clifton E. Brooks, Sr., is a model for integrity, honesty, and moral virtue, and has earned the respect and gratitude of a grateful state and nation; and

Whereas, It is fitting that on Mineral County Day at the Legislature, that we honor Clifton E. Brooks, Sr., for his everlasting contribution to the great state of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the service of Clifton E. Brooks, Sr., native of Keyser, West Virginia, World War II veteran, and member of the Tuskegee Airmen; and, be it

*Further Resolved,* That the Senate extends its most sincere appreciation to Clifton E. Brooks, Sr., for his dedicated service in preserving and defending freedom throughout the world; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Clifton E. Brooks, Sr.

At the request of Senator Smith, 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 Trump, and by unanimous consent, the remarks by Senators Smith and Woelfel regarding the adoption of Senate Resolution 6 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, at 11:17 a.m., the Senate recessed to present Senate Resolution 6.

The Senate reconvened at 11:21 a.m. and proceeded to the seventh order of business.

**Senate Concurrent Resolution 3**, Requesting Joint Committee on Government and Finance study practice of requiring payment to hold space by child care facilities.

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

**Senate Concurrent Resolution 4**, US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road.

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 5**, Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions sign.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Ojeda and Blair.

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

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senator Blair were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:39 a.m., the Senate adjourned until tomorrow, Friday, January 11, 2019, at 11 a.m.

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## FRIDAY, JANUARY 11, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by Rollan A. Roberts, a senator from the ninth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Craig Blair, a senator from the fifteenth district.

Pending the reading of the Journal of Thursday, January 10, 2019,

At the request of Senator Plymale, 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 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 10**, Relating to Second Chance Driver's License Program.

**Senate Bill 24**, Relating generally to local boards of health.

**Senate Bill 27**, Removing restrictions on where certain traditional lottery games may be played.

**Senate Bill 28**, Removing hotel occupancy tax limit collected for medical care and emergency services.

And,



**Senate Bill 36**, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

And reports the same back with the recommendation that they each 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 106**, Alleviating double taxation on foreign income at state level.

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

**Com. Sub. for Senate Bill 106** (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating to personal income tax; alleviating double taxation on foreign income at the state level; and sunsetting the credit for income tax paid on foreign income in 2069.

With the recommendation that the committee substitute 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

**Senate Bill 177**, Fire Commission rule relating to State Building Code.

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

**Senate Bill 190**, DOH rule relating to employment procedures.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Jeffries, Lindsay, Baldwin, and Beach:**

**Senate Bill 252**—A Bill to amend and reenact §5-26-1, §5-26-2, and §5-26-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto eight new sections, designated §5-26-4, §5-26-5, §5-26-6, §5-26-7, §5-26-8, §5-26-9, §5-26-10, and §5-26-11; to amend and reenact §5B-2B-3 of said code; and to amend and reenact §31-15-3 of said code, all relating to improving

the efforts of state government to address certain societal challenges facing racial minority populations; enhancing the Herbert Henderson Office of Minority Affairs and clarifying its role within the executive branch; establishing that the office has a primary focus on eight pillars that often disproportionately affect racial minorities; adjusting the duties of the office; requiring the office to undertake certain action; authorizing the executive director of the office to hire necessary staff; clarifying the objective of the community-based pilot project the office is required to undertake; setting certain deadlines and authorizing funding for the pilot project; detailing the mission of the office and certain specific duties with respect to family development, community development, workforce development, economic development, education, housing development, criminal justice reform, and health and social involvement; requiring the office to collaborate with other entities on certain responsibilities; adding the executive director of the office, or his or her designee, to the West Virginia Workforce Development Board; further clarifying one of the office's responsibilities to work with the West Virginia Economic Development Authority; creating the Small Business and Minority Populations Economic and Workforce Taskforce to assist the Director of the Economic Development Authority; declaring legislative findings; declaring the membership of the Small Business and Minority Populations Economic and Workforce Taskforce; clarifying that taskforce members do not receive compensation but may be reimbursed for expenses; detailing the duties of the taskforce; requiring certain work groups of the taskforce; stating measurements by which effectiveness will be judged; requiring the taskforce to meet at least once a year; and declaring that all taskforce meetings follow the Open Governmental Meetings Proceedings Act.

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

**By Senators Jeffries, Lindsay, Baldwin, Beach, and Hamilton:**

**Senate Bill 253**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, and §46A-6N-6, all relating to automatic purchase renewal offers and continuous service offers; stating legislative intent; defining terms; setting notice and disclosure requirements for automatic purchase renewal offers and continuous service offers; providing that a business may not charge the consumer for an automatic renewal or continuous services without first obtaining the consumer's affirmative consent; providing acknowledgement requirements; providing that the business shall disclose how to cancel the automatic renewal or continuous service before the consumer pays if the offer includes a free gift or trial; providing that a business shall provide certain mechanism for cancellation of the automatic renewal or continuous offer in the acknowledgement; providing means for terminating the automatic renewal or continuous service offer online; providing notice requirements in the case of material changes in the terms of the automatic renewal or continuous service; providing that the business shall provide to the consumer a reminder of the recurring charge and information on how the consumer may cancel at least 30 days prior to the charge in the case of automatic renewal or continuous service offers of certain frequency; providing a period of application; providing that goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer when the business sends any goods, wares, merchandise, or products to a consumer without first obtaining the consumer's affirmative consent under a continuous service agreement or automatic renewal of a purchase; providing a civil cause of action; providing statutory penalties; providing that no action may be brought until written notice is provided by the consumer, or his or her representative, to the business; providing written notice requirements; providing mailing requirements; providing the business an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for the business to remit payment, if any, as specified in the accepted cure offer; providing that a claim may be brought for failure of the business to timely effect the accepted cure offer; providing that the written notice is a jurisdictional prerequisite to bringing a cause of action; providing the court discretion to award plaintiff costs of the action, including reasonable attorneys' fees; providing that plaintiff is not entitled to

costs and attorneys' fees under certain circumstances; providing a statute of limitations; providing that the statute of limitations shall be tolled; and stating exemptions.

Referred to the Committee on the Judiciary.

**By Senators Jeffries, Lindsay, Hamilton, Baldwin, Beach, and Tarr:**

**Senate Bill 254**—A Bill to amend and reenact §61-1-9 of the Code of West Virginia, 1931, as amended, relating to increasing the misdemeanor penalty for impersonation of a law-enforcement officer or official to include the possibility of confinement in jail.

Referred to the Committee on the Judiciary.

**By Senators Boso, Baldwin, and Maroney:**

**Senate Bill 255**—A Bill to amend and reenact §16-4C-5 of the Code of West Virginia, 1931, as amended, relating generally to the Emergency Medical Services Advisory Council; reconfiguring and increasing the membership of the council by adding three nonvoting citizen-members; and requiring three members to be representative of professional groups.

Referred to the Committee on Government Organization.

**By Senators Weld, Cline, Baldwin, Tarr, Clements, and Maroney:**

**Senate Bill 256**—A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended, relating to allowing certain deductions to be made from individual personal income tax refunds; providing check off for nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home; and providing check off for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery.

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

**By Senators Weld, Cline, and Baldwin:**

**Senate Bill 257**—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal

year ending June 30, 2019, in the amount of \$1,120,000 from the Department of Revenue, Insurance Commissioner – Insurance Commissioner Fund, fund 7152, fiscal year 2019, organization 0704, and making a supplementary appropriation out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Health and Human Resources, Division of Health – Consolidated Medical Services Fund, fund 0525, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Trump and Tarr:**

**Senate Bill 258**—A Bill to amend and reenact §31B-3-303 of the Code of West Virginia, 1931, as amended, relating to establishing that the intent and policy of the Legislature is the common law corporate “veil piercing” claims may not be used to impose personal liability on a member or manager of a limited liability company.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Azinger, Beach, Boso, Clements, Hamilton, Maynard, Rucker, Smith, Stollings, Woelfel, Cline, Jeffries, Tarr, and Maroney:**

**Senate Bill 259**—A Bill to amend and reenact §7-7-6e of the Code of West Virginia, 1931, as amended, relating to expanding the Coyote Control Program by providing for an assessment on breeding cows; providing an option for owners of breeding cows not to participate in the program; requiring notice; and setting forth a purpose.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators Stollings, Jeffries, Prezioso, Takubo, Hamilton, Lindsay, and Maroney:**

**Senate Bill 260**—A Bill to amend and reenact §23-4-6a of the Code of West Virginia, 1931, as amended; and to amend said code

by adding thereto a new section, designated §23-4-26, all relating to occupational pneumoconiosis; eliminating the prohibition on permanent partial disability awards based solely on a diagnosis of occupational pneumoconiosis; declaring that an employee with occupational pneumoconiosis without measurable pulmonary impairment shall be paid certain benefits; and requiring certain claimants to receive permanent partial disability awards that may later be offset from a future disability award.

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

**By Senators Trump and Cline:**

**Senate Bill 261**—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to the number of magistrates to be seated in each county of the state and their election.

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

**By Senator Trump:**

**Senate Bill 262**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide discount on noncovered services; prohibiting dentists from charging more for covered persons on noncovered services than his or her customary or usual rate for the services; and providing that insurers may not provide for a nominal reimbursement for a service in order to claim that a service or material is covered.

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

**By Senators Prezioso, Woelfel, Baldwin, Sypolt, Jeffries, Maroney, and Lindsay:**

**Senate Bill 263**—A Bill to amend and reenact §4-2A-3 of the Code of West Virginia, 1931, as amended, relating to limiting the number of days members of the Legislature may receive

compensation during an extended and extraordinary session if the budget bill has not been enacted.

Referred to the Committee on Finance.

**By Senators Trump, Hamilton, Cline, and Tarr:**

**Senate Bill 264**—A Bill to amend and reenact §61-11A-4 of the Code of West Virginia, 1931, as amended, relating to requiring courts to order restitution to victims of crime; providing for consideration of economic hardship within the order; and providing for the definition of any person compensating a victim for loss to include the West Virginia Crime Victims Compensation Fund for restitution purposes.

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

**By Senators Carmichael (Mr. President), Cline, Baldwin, Sypolt, Boso, and Tarr:**

**Senate Bill 265**—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain high school graduates shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing



the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to promulgate rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 266**—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to the West Virginia Appellate Reorganization Act of 2019; requiring board to dispose of cases by a certain date; requiring contested cases under State Administrative Procedures Act to go to the Intermediate Court of Appeals; transferring jurisdiction for review of family court final orders from circuit courts to Intermediate Court of Appeals; placing judges of Intermediate Court of Appeals under the judicial retirement system; altering the residency requirements for membership on the Judicial Vacancy Advisory Commission; creating the Intermediate Court of Appeals; providing a short title; providing legislative findings; defining terms; establishing and defining two geographical districts of the Intermediate Court of Appeals; requiring three-judge panels for proceedings; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; specifically excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing eligibility criteria for

judges of the Intermediate Court of Appeals; providing that no two judges of the Intermediate Court of Appeals may be residents of the same state senatorial district or of the same county; providing a process for appointment of judges to the Intermediate Court of Appeals to staggered judicial terms; providing that the Governor's appointments are subject to Senate confirmation; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected office during judicial term; providing for temporary filling of judicial vacancy occurring before the expiration of an appointed judge's term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; requiring the chief judge of each Intermediate Court of Appeals district to publish and submit certain reports to the Legislature and Supreme Court of Appeals regarding pending cases; authorizing filing fees; providing for deposit of filing fees in a special revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings take place in publicly available facilities across the state; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for respective districts; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for

reimbursement of expenses of Intermediate Court of Appeals staff; and providing that certain appeals are reviewed and a written decision issued by either the Intermediate Court of Appeals or the Supreme Court of Appeals, as a matter of right.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 267**—A Bill to amend and reenact §18-2-12 of the Code of West Virginia, 1931, as amended, relating to requiring the State Board of Education to adopt a policy detailing the appropriate level of computer science instruction that shall be available to students at each programmatic level; and requiring the West Virginia Department of Education to develop and offer professional development opportunities.

Referred to the Committee on Education.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 268**—A Bill to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 269**—A Bill to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act; providing rule for determining number of personal exemptions; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 270**—A Bill to amend and reenact §17-2A-17a of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-2E-2, §17-2E-3, §17-2E-5, and §17-2E-6 of said code, all relating to the use of state-owned rights-of-way; modifying requirements related to accommodation leases; amending procedures and requirements of the state's dig once policy; modifying definitions; providing for the determination of fair market value; modifying notice requirements for permit applicants; amending procedures for the adjudication of disputes between telecommunications carriers; providing exemptions to certain dig once requirements; and authorizing the Division of Highways to, upon approval of the Governor, transfer or assign the ownership, control, or any rights related to any in-kind compensation received by the division to any other state agency.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President), Trump, Woelfel, Palumbo, and Tarr:**

**Senate Bill 271**—A Bill to repeal §5A-3-28, §5A-3-30, and §5A-3-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-5B-1, §61-5B-2, §61-5B-3, and §61-5B-4, all relating to criminal acts concerning government procurement of commodities and services; moving current provisions from chapter 5A to chapter 61 of this code; defining terms; including the provision of cash, credit, and waivers of debt or liability as commodities; prohibiting public officials from having personal interest in government procurement; applying provisions to all branches and units of state government; prohibiting fraud and attempts to defraud government entities in procurement; prohibiting knowing acceptance and delivery of inferior goods and services; defining unfair and corrupt acts in bidding and contracting for commodities and services; and establishing criminal penalties therefor.

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

**By Senators Carmichael (Mr. President), Trump, Woelfel, Palumbo, and Tarr:**

**Senate Bill 272**—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; continuing the commission; clarifying composition and chairmanship of the commission and terms of members; redefining what constitutes a quorum for voting procedures of the commission; specifying contents of the commission's annual report; authorizing the employment of staff and the creation of certain staff positions; granting power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, and tangible things; authorizing the issuance of written requests for production in lieu of subpoenas; authorizing the director to issue subpoenas on the commission's behalf; authorizing the commission to require an agency head to appear before the commission to answer for an agency's failure to appear or produce requested or subpoenaed material or other failure to comply with a commission investigation; providing for the confidentiality of investigations; providing for executive session and confidentiality rights of witnesses; updating exemption of investigative materials from public disclosure; removing requirement for pre-approval of expenses of the commission by the Joint Committee on Government and Finance; providing procedures for the commission's retention and disposal of records; establishing new offenses of impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishing criminal penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; authorizing sale of surplus weapons to active and

retired members of the commission's investigative staff; and updating language and terms for clarity throughout.

Referred to the Committee on the Judiciary.

**By Senators Carmichael (Mr. President), Trump, Woelfel, Palumbo, and Tarr:**

**Senate Bill 273**—A Bill to amend and reenact §6-9-7 of the Code of West Virginia, 1931, as amended; and to amend §12-4A-1, §12-4A-2, §12-4A-3, and §12-4A-4 of said code, all relating to reporting evidence of governmental waste, fraud, or mismanagement to the Commission on Special Investigations; requiring the chief inspector of the State Auditor's office to provide information relating to misfeasance, malfeasance, or nonfeasance of public officers or employees; changing "state funds" to "public funds" and providing a definition thereof; establishing time requirement for the delivery of required information or reports; and clarifying that the State Auditor must provide all reports of fraud, misappropriation, mismanagement, or waste of public funds to the commission.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Boso, Stollings, Cline, Baldwin, Maroney, and Smith:**

**Senate Bill 274**—A Bill to amend and reenact §12-4-14 of the Code of West Virginia, 1931, as amended, relating to accounting for the use of funds from state grants and from formula distributions to volunteer and part-volunteer fire departments; requiring fire departments to file bank statements and check images instead of a sworn statement of expenditures; changing threshold dates; removing criminal penalties; and updating outdated language.

Referred to the Committee on Government Organization.

**By Senators Sypolt, Clements, Baldwin, Boso, Maroney, and Smith:**

**Senate Bill 275**—A Bill to amend and reenact §11A-3-19, §11A-3-21, §11A-3-52, §11A-3-54, §11A-3-56, and §11A-3-58 of

the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a, and §11A-3-58b, all relating generally to the sale of delinquent surface and mineral properties; providing that a purchaser shall provide certain information to the State Auditor in order to secure a deed for the real estate subject to a tax lien purchased; providing that no deed to a bona fide purchaser for value from the purchaser or substituted purchaser may be set aside for purchaser's failure to provide such information; providing additional instructive language to be included in the notice to redeem; providing that the surface owner of the surface tract overlying the mineral property subject to the tax lien being sold may purchase that mineral property under certain circumstances; providing that, upon payment by the surface owner, the clerk or deputy commissioner, whichever applicable, shall issue a certificate of substitution to the substituted surface owner; providing that the clerk or deputy commissioner, whichever applicable, shall refund the money paid by the surface owner if the property is redeemed by the mineral owner or a person with a right to redeem; providing that the surface owner enjoys the full rights and duties of the purchaser if the owner or a person with a right to redeem does not redeem and only one surface owner receives a certificate of substitution; providing that surface owners shall submit an agreement dividing the mineral property if more than one surface owner pays the clerk or deputy commissioner, whichever applicable, the appropriate amount; providing that the original purchaser is returned to his or her original position if no agreement is filed; providing that the mineral owner of the mineral tract underlying the surface property subject to the tax lien being sold may purchase that surface property under certain circumstances; providing that, upon payment by the mineral owner, the clerk or deputy commissioner, whichever applicable, shall issue a certificate of substitution to the substituted mineral owner; providing that the clerk or deputy commissioner, whichever applicable, shall refund the money paid by the mineral owner if the property is redeemed by the surface owner or a person with a right to redeem; providing that the mineral owner enjoys the full rights and duties of the purchaser if the owner or a person with a right to redeem does not redeem and only one mineral owner receives a

certificate of substitution; providing that mineral owners shall submit an agreement dividing the surface property if more than one mineral owner pays the clerk or deputy commissioner, whichever applicable, the appropriate amount; providing that the original purchaser is returned to his or her original position if no agreement is filed; and raising the limit on recoupable expenses incurred in preparing notice to redeem, including title examination, to \$500.

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

**By Senators Baldwin and Woelfel:**

**Senate Bill 276**—A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-5d, and §3-8-15 of the Code of West Virginia, 1931, as amended, all relating to the regulation and control of elections; prohibiting a foreign national from contributing to candidates in West Virginia; defining “foreign national”; offenses for violation of campaign financial disclosure laws; and prohibiting fundraising for candidates for legislative office during the regular session of the Legislature after July 1, 2019.

Referred to the Committee on the Judiciary.

**By Senators Baldwin, Hamilton, Beach, Jeffries, and Tarr:**

**Senate Bill 277**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to certain crimes against certain government representatives; and clarifying that concealing or attempting to conceal a hypodermic needle in certain circumstances constitutes a criminal offense.

Referred to the Committee on the Judiciary.

**By Senators Baldwin, Beach, Jeffries, Tarr, and Prezioso:**

**Senate Bill 278**—A Bill to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to permitting honorably discharged veterans to hunt, trap, or fish in this state without first obtaining a license.

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



**By Senators Jeffries, Azinger, Baldwin, Beach, Boso, Facemire, Ihlenfeld, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Woelfel, Cline, Rucker, Clements, Tarr, and Maroney:**

**Senate Bill 279**—A Bill to amend and reenact §20-2B-7 of the Code of West Virginia, 1931, as amended, relating to authorizing lifetime hunting, fishing, and trapping licenses for foster or adoptive children who have not reached the second year of their placement to be the same cost as resident children who have not reached their second birthday.

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

**By Senators Lindsay, Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Woelfel, Cline, and Tarr:**

**Senate Bill 280**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to creating a modification for Social Security income with respect to the West Virginia personal income tax; effectively eliminating the tax on Social Security for certain taxpayers; and providing for the nullification of the provisions under certain circumstances.

Referred to the Committee on Finance.

**By Senators Sypolt, Beach, Boso, Clements, Hamilton, Smith, Stollings, Baldwin, and Maroney:**

**Senate Bill 281**—A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to increasing the limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services.

Referred to the Committee on Finance.

**By Senators Sypolt, Beach, Boso, Clements, Hamilton, Maynard, Smith, Stollings, Baldwin, Maroney, and Prezioso:**

**Senate Bill 282**—A Bill to amend and reenact §11-21-21 of the Code of West Virginia, 1931, as amended, relating to changing

the qualifier for low income to 300 percent or less of the federal poverty guideline from 150 percent or less of the federal poverty guideline for a senior citizens' homestead tax credit.

Referred to the Committee on Finance.

**By Senators Sypolt, Beach, Boso, Clements, Hamilton, Maynard, Smith, Cline, Baldwin, Tarr, and Maroney:**

**Senate Bill 283**—A Bill to amend and reenact §61-5-7 of the Code of West Virginia, 1931, as amended, relating to making it a misdemeanor for a person to impede or obstruct a law-enforcement officer in the conduct of an investigation of a misdemeanor who knowingly and willfully makes a materially false statement; establishing a penalty; and making a technical correction.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Azinger, Boso, Clements, Maynard, Smith, Cline, Tarr, and Maroney:**

**Senate Bill 284**—A Bill to amend and reenact §3-2-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17B-2-1 of said code, all relating to permitting photo identification on voter registration identification cards; and providing that voter registration and designation information may also be placed on drivers' licenses or state-issued identification cards, if so determined by the Secretary of State in cooperation with the Commissioner of Motor Vehicles.

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

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

**Senate Concurrent Resolution 6**—Requesting the Division of Highways to name bridge number 22-10-28.14 (22A038), locally known as West Hamlin Bridge, carrying WV 10 over the Guyandotte River in Lincoln County, the "U. S. Army SP4 Darrell Gregory Triplett Memorial Bridge".

Whereas, Darrell Gregory Triplett was born in West Hamlin and was an honor graduate of Guyan Valley High School in 1965. He served during the Vietnam War. With only a month left in the army, he was coming home on a weekend pass to celebrate his 21st birthday when he was killed in a plane crash at Yeager Airport in 1968; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army SP4 Darrell Gregory Triplett 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 22-10-28.14 (22A038), locally known as West Hamlin Bridge, carrying WV 10 over the Guyandotte River in Lincoln County, the “U. S. Army SP4 Darrell Gregory Triplett 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 Darrell Gregory Triplett 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 Sypolt, Baldwin, Cline, and Smith offered the following resolution:

**Senate Concurrent Resolution 7**—Urging Congress to amend title 23, United States Code, to permit the State of West Virginia to provide exceptions to the maximum gross vehicle weight that will allow the operation of certain vehicles, including tri-axle dump trucks, for the hauling of timber on interstate highways in West Virginia.

Whereas, Providing an exception to the existing weight limit and restrictions for certain trucks operating on interstate highways in West Virginia will allow these trucks to travel the safer interstate highways and decrease their presence on the more dangerous state and U. S. highways of West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Congress is urged to amend title 23, United States Code, to permit the State of West Virginia to provide exceptions to the maximum gross vehicle weight that will allow the operation of certain vehicles, including tri-axle dump trucks, for the hauling of timber on interstate highways in West Virginia; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation.

Which, under the rules, lies over one day.

Senators Romano, Facemire, Woelfel, Baldwin, and Beach offered the following resolution:

**Senate Concurrent Resolution 8**—Requesting the Division of Highways name bridge number 17-9-0.35 (17A053), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the “Walter E. Swiger, Jr., Memorial Bridge”.

Whereas, Walter E. Swiger, Jr., was a lifelong resident of Harrison County, a graduate of Victory High School and West Virginia Business College; and

Whereas, Walter E. Swiger, Jr., retired after 43 years in petroleum marketing having operated his own business; and

Whereas, Walter E. Swiger, Jr., was appointed to the Harrison County Solid Waste Authority in 1990 by the Harrison County Commission and served as chairman of the authority; and

Whereas, Walter E. Swiger, Jr., was chosen as the Volunteer of the Year by the Association of West Virginia Solid Waste Authorities during their 12th annual conference in the fall of 2000; and

Whereas, Walter E. Swiger, Jr., was an outstanding community leader with many years of service in various organizations, serving the local emergency planning committee, Clarksburg Lions Club, Central West Virginia Community Action Association, and others; and

Whereas, As chairman, Walter E. Swiger, Jr., worked to help develop a recycling ordinance for the county, established a recycling hotline, and was recognized in several issues of the Solid Waste Reporter for his leadership in “one of the top integrated waste management programs in West Virginia”; and

Whereas, Walter E. Swiger, Jr., worked with county education leaders through the solid waste authorities’ efforts as Partner in Education with 10 county schools; and

Whereas, Walter E. Swiger, Jr., passed away on November 5, 2015, and it is fitting that a permanent memorial be established to honor his work; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-9-0.35 (17A053), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the “Walter E. Swiger, Jr., Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Walter E. Swiger, 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 Boley, Woelfel, Cline, Baldwin, Beach, Rucker, and Prezioso offered the following resolution:

**Senate Resolution 7**—Designating January 11, 2019, as Women’s and Girls’ Day at the Legislature.

Whereas, The West Virginia Women’s Commission is celebrating four decades of promoting the status and empowerment of all West Virginia women through advocacy, research, education, and consensus building; and

Whereas, The West Virginia Women’s Commission strives to foster women’s economic, political, educational, and social development, to ensure their full participation in society and to recognize their achievements; and

Whereas, In their roles as individuals, workers, military personnel, mothers, daughters, sisters, wives, friends, caretakers, activists, and volunteers, women make significant contributions to West Virginia’s economy, families, communities, and general well-being; and

Whereas, The West Virginia Women’s Commission has continued its history of honoring women across the state through programs such as celebrating the annual Legacy of Women Awards, educating women and legislators during their annual Women’s and Girls’ Day at the Legislature, completing annual policy statements highlighting legislation of importance to women and families, recognizing the annual Women’s Equality Day Celebration commemorating the passage of the 19th amendment, and raising awareness on Equal Pay Day of how far into the year women must work to earn what men earned in the previous year; and

Whereas, Through the West Virginia Women's Commission's programs and collaborations with partner organizations, women have the opportunity to participate in learning experiences through workshops focused on citizen advocacy; and

Whereas, West Virginia citizens are proud of the accomplishments and achievements of women of every race, class, and ethnic background in our state, both in the private and public sectors and appreciate their many contributions to our communities as they continue to advance in leadership roles, not only in West Virginia but throughout our nation and the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 11, 2019, as Women's and Girls' Day at the Legislature; and, be it

*Further Resolved,* That the Senate expresses its sincere appreciation to women for the many contributions they make to the State of West Virginia in all facets of our society; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Women's Commission.

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

On motion of Senator Takubo, at 11:16 a.m., the Senate recessed to present Senate Resolution 7.

The Senate reconvened at 11:19 a.m. and proceeded to the twelfth order of business.

Remarks were made by Senators Plymale and Hamilton.

On motion of Senator Takubo, at 11:21 a.m., the Senate adjourned until Monday, January 14, 2019, at 11 a.m.

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## MONDAY, JANUARY 14, 2019

The Senate met at 11:09 a.m.

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

Prayer was offered by the Reverend Tom Bias, Retired United Methodist Clergy, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Tom Takubo, a senator from the seventeenth district.

John Marshall Fife and Drum Corps of Marshall University performed a selection of songs including “The Star-Spangled Banner”.

Pending the reading of the Journal of Friday, January 11, 2019,

At the request of Senator Trump, 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:

Geological and Economic Survey (§29-2-6)

Respiratory Care, Board of (§30-1-12)

Sanitarians, State Board of (§30-1-12)

At the request of Senator Plymale, unanimous consent being granted, the Senate proceeded to the sixth order of business and the consideration of Senate Resolution 8.

Senators Plymale, Woelfel, Stollings, Boso, Sypolt, Maroney, and Lindsay offered the following resolution:



**Senate Resolution 8**—Designating January 14, 2019, as Marshall University Day at the Capitol.

Whereas, Marshall University has been educating sons and daughters of Marshall in the tradition of Chief Justice John Marshall since the institution's founding in 1837. This year marks the 182nd anniversary of Marshall University, founded as Marshall Academy; and

Whereas, Marshall University is a premier institution of higher learning, educating more than 13,000 students at 10 locations; and

Whereas, New academic programs in biomedical engineering, cybersecurity, and physician assistant will offer Marshall students the opportunity to prepare for cutting-edge careers; and

Whereas, Research at Marshall has grown 35 percent over the past two years and is focused on addressing some of the most pressing health concerns in Appalachia; and

Whereas, Its community partnerships and multidisciplinary approach to treating substance use disorder have made Marshall University a world leader in the effort to rebuild lives ravaged by the opioid epidemic; and

Whereas, The University's Robert C. Byrd Institute is dedicated to the productivity, growth, and global competitiveness of entrepreneurs and the Appalachian Transportation Institute continues to set national standards in transportation; and

Whereas, Nearly \$400 million and 3,200 jobs are contributed annually to West Virginia's economy by Marshall University; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 14, 2019, as Marshall University Day at the Capitol; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to Marshall University for its tremendous contributions to the State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Dr. Jerome A. Gilbert, President of Marshall University.

At the request of Senator Plymale, 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 Takubo, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 8 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:26 a.m., the Senate recessed to present Senate Resolution 8.

The Senate reconvened at 11:30 a.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Sypolt, Azinger, Beach, Boso, Clements, Cline, Facemire, Hamilton, Maynard, Prezioso, Smith, Stollings, Swope, Takubo, Tarr, Trump, Rucker, Roberts, and Maroney:**

**Senate Bill 285**—A Bill to amend and reenact §19-35-2 and §19-35-5 of the Code of West Virginia, 1931, as amended, all relating to modification of cottage food laws.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Government Organization.

**By Senators Rucker, Roberts, Trump, Unger, Cline, Tarr, and Maroney:**

**Senate Bill 286**—A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to including certain education programs operated by private schools with

accredited preschool classes and certain recognition by Department of Education.

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

**By Senators Smith, Baldwin, Boso, Clements, Jeffries, Sypolt, Cline, Roberts, and Maroney:**

**Senate Bill 287**—A Bill to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating to termination of parental rights; and requiring the Department of Health and Human Resources to file a petition to terminate parental rights when a parent has, on two separate occasions, had their child removed from their care and determined by a court to have subjected that child to abuse or neglect.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Azinger, Boso, Cline, Jeffries, Maynard, Smith, Swope, Sypolt, Takubo, Weld, Roberts, Tarr, Maroney, and Lindsay:**

**Senate Bill 288**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5V-36, relating to providing that moneys in the West Virginia Emergency Medical Services Retirement Fund are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or any other process whatsoever with the exception that the benefits or contributions under the system shall be subject to “qualified domestic relations orders”, and are generally unassignable.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 289**—A Bill to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended, relating to the wireless enhanced 911 fee; eliminating portions of the wireless enhanced 911 fee that are disbursed to state agencies; establishing the public

safety wireless fee; and providing for the collection and disbursement of the public safety wireless fee.

Referred to the Committee on Finance.

**By Senator Azinger:**

**Senate Bill 290**—A Bill to amend and reenact §61-8B-7, §61-8B-9a, and §61-8B-9b of the Code of West Virginia, 1931, as amended, all relating to raising the age of children who are victims of certain sex offenses to 16.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Baldwin, Maynard, Rucker, and Roberts:**

**Senate Bill 291**—A Bill to amend and reenact §5H-1-1, §5H-1-2, and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to survivor benefits for emergency response providers; changing the name of the West Virginia Fire and EMS Survivor Benefit Act to the West Virginia Emergency Responders Survivor Benefit Act; making Division of Forestry personnel who die as a proximate result of their participation in wildland fire fighting, emergency response, or disaster response operations eligible for survivor benefits; defining terms; making technical changes; and reorganizing language in the act for clarity.

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

**By Senators Sypolt, Stollings, Boso, Maroney, and Baldwin:**

**Senate Bill 292**—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f of said code, all relating to fire service equipment and training funds for volunteer and part-volunteer fire companies and departments; authorizing fire departments to file bank statements and check images instead of sworn statements of expenditures; prohibiting the commingling of funds; requiring retention of

payment records; defining certain terms; changing deadline dates; authorizing forfeiture and redistribution of funds of delinquent fire departments; prohibiting the conversion of funds through returns or refunds of goods or services; providing for deductions from quarterly distributions to offset improper expenditures by a fire company or department; clarifying the responsibility for proposing legislative rules; requiring written notifications of delinquencies and misapplication of funds; providing a procedure to contest findings of Legislative Auditor; removing certain criminal penalties; and updating outdated language.

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

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Lindsay, and Baldwin:**

**Senate Bill 293**—A Bill to amend and reenact §18A-1-1 of the Code of West Virginia, 1931, as amended, relating to clarifying a director of a multicounty vocational technical school is a principal.

Referred to the Committee on Education.

**By Senators Hamilton, Facemire, Jeffries, Maynard, Smith, Sypolt, and Cline:**

**Senate Bill 294**—A Bill to amend and reenact §17C-15-26 of the Code of West Virginia, 1931, as amended, relating to allowing vehicles operated by transportation directors and transportation supervisors employed by county boards of education to use red flashing warning lights.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Cline, Trump, Rucker, and Lindsay:**

**Senate Bill 295**—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to crimes against public justice; obstructing an officer; including court security officers in the definition of persons against whom obstructing an officer is a crime; and adding protection for court

security personnel and bailiffs as it relates to the potential to charge individuals for obstruction of such officers.

Referred to the Committee on the Judiciary.

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, and Smith:**

**Senate Bill 296**—A Bill to amend and reenact §5-10-18 of the Code of West Virginia, 1931, as amended, relating to providing an 11-month window to permit members of the Public Employees Retirement System to purchase credited service that had been previously forfeited.

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

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Trump, Roberts, Tarr, Lindsay, and Baldwin:**

**Senate Bill 297**—A Bill to amend and reenact §17B-2-12 of the Code of West Virginia, 1931, as amended, relating to extending the expiration of driver's licenses for active military members' spouses.

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

**By Senators Hamilton, Boso, Ihlenfeld, Jeffries, Maynard, Smith, Stollings, Sypolt, Cline, and Tarr:**

**Senate Bill 298**—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that the developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person over the age of 18 years; and providing criminal penalties for violations.

Referred to the Committee on Natural Resources.

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Rucker, and Lindsay:**

**Senate Bill 299**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-20-11, relating to selection of language developmental milestones for purposes of developing a resource for use by parents to monitor and track deaf and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward English literacy.

Referred to the Committee on Education.

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Cline, and Maroney:**

**Senate Bill 300**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803, relating to adoption records; authorizing adult adoptees access to certain records; requiring birth parents to provide certain health information; allowing birth parents to designate a contact preference and allowing them to provide certain information; directing the Department of Health and Human Resources to administer records, require additional information, and charge a reasonable fee; providing a procedure for the collection and dissemination of information; and authorizing the Department of Health and Human Resources to promulgate legislative rules.

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

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Maynard, Smith, Sypolt, and Cline:**

**Senate Bill 301**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exempting wood furniture from state sales tax if 75 percent of the finished product is made from wood timbered in the state and the furniture is manufactured in the state.

Referred to the Committee on Finance.

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Cline, Stollings, and Baldwin:**

**Senate Bill 302**—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to the surcharge on fire and casualty insurance policies; providing that the surcharge be increased to one percent; and providing that the surcharge be used solely for volunteer fire departments.

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

**By Senators Rucker, Azinger, Cline, Boso, and Tarr:**

**Senate Joint Resolution 8**—Proposing an amendment to the Constitution of the State of West Virginia, amending section seven, article VIII thereof, relating to requiring the Senate to confirm by a majority vote the appointment of any justice to the Supreme Court of West Virginia; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Hamilton, Boso, Jeffries, Maynard, Smith, Sypolt, Maroney, and Lindsay offered the following resolution:

**Senate Concurrent Resolution 9**—Requesting the Division of Highways name bridge number 49-32-12.86 (49A061), locally known as Alton Deck Girder, carrying County Route 32 over the Buckhannon River in Upshur County, the “U. S. Army PFC Winten L. Ways Memorial Bridge”.

Whereas, Winten L. Ways, son of Mr. and Mrs. Willard H. Ways, of Alton, Upshur County, West Virginia, was born February 13, 1933, at Alton; and

Whereas, PFC Winten L. Ways served in the U.S. Army as a member of the 712th Transportation Railway Operating Battalion; and

Whereas, On August 22, 1951, PFC Winten L. Ways died as a result of injuries he sustained from falling from a train while on duty as a brakeman near Seoul, South Korea; and



Whereas, PFC Winten L. Wayts' remains are buried at Indian Camp Cemetery at French Creek, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Winten L. Wayts who lost his life in service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 49-32-12.86 (49A061), locally known as Alton Deck Girder, carrying County Route 32 over the Buckhannon River in Upshur County, the "U. S. Army PFC Winten L. Wayts 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 Winten L. Wayts 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.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 6,** US Army SP4 Darrell Gregory Triplett 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 7,** Urging Congress provide exceptions to weight limits on trucks on interstate.

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 8**, Walter E. Swiger, 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 tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Senate Bill 10**, Relating to Second Chance Driver's License Program.

**Senate Bill 24**, Relating generally to local boards of health.

**Senate Bill 27**, Removing restrictions on where certain traditional lottery games may be played.

**Senate Bill 28**, Removing hotel occupancy tax limit collected for medical care and emergency services.

**Senate Bill 36**, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

**Com. Sub. for Senate Bill 106**, Alleviating double taxation on foreign income at state level.

**Senate Bill 177**, Fire Commission rule relating to State Building Code.

And,

**Senate Bill 190**, DOH rule relating to employment procedures.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:36 a.m., the Senate adjourned until tomorrow, Tuesday, January 15, 2019, at 11 a.m.

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## TUESDAY, JANUARY 15, 2019

The Senate met at 11:03 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 Ryan W. Weld, a senator from the first district.

Pending the reading of the Journal of Monday, January 14, 2019,

At the request of Senator Beach, 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 following communication was reported by the Clerk:

The Senate of West Virginia  
Charleston

RICHARD N. OJEDA, II  
STATE SENATOR  
7TH SENATORIAL DISTRICT



SENATE CAPITOL, ROOM W-213  
1900 KANAWHA BLVD. EAST  
CHARLESTON, WV 25305-0800  
304-357-7857

Senator Mitch Carmichael, President  
West Virginia Senate  
Room 227M, Building 1  
State Capitol Complex  
Charleston, West Virginia 25305

14 January 2019

Dear President Carmichael;

Please accept this letter of formal resignation from my seat as Senator for the Seventh District effective close of business today. I do not resign lightly nor out of anger or surrender, but because it would be unfair to leave this seat empty, with no voice for my district as I pursue my charted course.

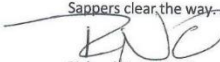
It has been an honor to have served in this revered Chamber and to have been entrusted with protecting and furthering the good works for the citizens who elected me and for West Virginians as a whole. Frustrating at times, yes, but a true honor.

As stated in earlier remarks from the floor, all that I have worked for, strived for, was not for any personal benefit or glory for myself but for the benefit of the people of our wonderful state. It is hard to stand by, nay impossible, and not take to heart the serious issues facing our neighbors, our family, our friends. And in respect to this, it is my sincere hope that the promise made by the governor to our teachers for the additional raise and PEIA cash infusion will be passed in a clean bill. A bill that will not attack their hard-earned tenure. At least working side by side with Russell Williams, learning about the many non-addictive pain management benefits of medical cannabis, I am glad we sensibly became the 29<sup>th</sup> state to legitimize this natural, God-given plant.

To my brothers in the Democratic party, thank you for your knowledge, guidance, and friendship. It has been a true honor to serve with you and to fight the good fight.

It is the frustration of not having been able to do more, and my belief that I cannot help remedy other serious issues facing West Virginia by directly working within this body, within the state, that today I, Richard N. Ojeda II, do hereby resign my office as Senator for the 7<sup>th</sup> District. I sincerely hope that the Governor remains honorable to his office, does right by my constituents, and selects a strong Democrat. One who is not a lobbyist or a friend. One who stands proudly and honestly for the district.

*Sappers clear the way--Airborne all the way.*

  
Richard N. Ojeda, II  
Senator, District 7

RO:ly  
Cc: Lee Cassis, Clerk of the Senate

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

**Senate Bill 61**, Adding certain crimes for which prosecutor may apply for wiretap.

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

**Com. Sub. for Senate Bill 61** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including the crimes of treason, first and second degree murder, first degree robbery, and participation in an organized criminal enterprise to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications.

With the recommendation that the committee substitute 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

**Senate Bill 184**, State Tax Department rule relating to exchange of information agreement between Tax Division and DEP.

**Senate Bill 185**, State Tax Department rule relating to exchange of information agreement between State Tax Division and Alcohol Beverage Control Administration.

**Senate Bill 186**, State Tax Department rule relating to exchange of information pursuant to written agreement.

**Senate Bill 187**, State Tax Department rule relating to exchange of information agreements between State Tax Division and certain state agencies.

**Senate Bill 188**, State Tax Department rule relating to exchange of information agreement between State Tax Department and WV Lottery.

And,

**Senate Bill 189**, State Tax Department rule relating to exchange of information agreement between State Tax Department and State Fire Marshal.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 Bill 229**, DNR rule relating to commercial whitewater outfitters.

And,

**Senate Bill 230**, DNR rule relating to Cabwaylingo State Forest trail system two-year pilot program permitting ATVs and ORVs.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 272**, Updating code relating to Commission on Special Investigations.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Romano, Stollings, Beach, Cline, Woelfel, Baldwin, Maroney, Tarr, Takubo, and Prezioso:**

**Senate Bill 303**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and exempting Social Security benefits from personal income tax.

Referred to the Committee on Finance.

**By Senators Hamilton, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Stollings, Lindsay, Baldwin, Beach, Cline, and Takubo:**

**Senate Bill 304**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-1B-1, §5B-1B-2, §5B-1B-3, and §5B-1B-4, all relating to establishing the Southern West Virginia Lake Development Study Commission; providing legislative findings; establishing the commission and designating its membership; defining components of commission study; authorizing the commission to create committees and utilize university and other state government resources; providing for expense reimbursement for certain commission members; and requiring reports to the Legislature.

Referred to the Committee on Economic Development; and then to the Committee on Government Organization.

**By Senators Hamilton, Boso, Ihlenfeld, Jeffries, Smith, Romano, Woelfel, Lindsay, Baldwin, Beach, Cline, and Takubo:**

**Senate Bill 305**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the wasting of big game animals; defining a term; and creating a misdemeanor penalty.

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

**By Senators Lindsay, Baldwin, Jeffries, Beach, and Prezioso:**

**Senate Bill 306**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2P-1, §16-2P-2, §16-2P-3, §16-2P-4, §16-2P-5, §16-2P-6, §16-2P-7, §16-2P-8, §16-2P-9, §16-2P-10, §16-2P-11, §16-2P-12, §16-2P-13, §16-2P-14, §16-2P-15, §16-2P-16, §16-2P-17, §16-2P-18, §16-2P-19, and §16-2P-20, all relating to establishing the Family and Medical Leave Insurance Benefits Act; defining



terms; detailing eligibility requirements; declaring the duration of benefits authorized by the article; noting the amount of benefits; specifying contributions; setting certain requirements and entitlements under the article; protecting against certain adverse action for exercising certain rights under the article; prohibiting retaliation or discrimination under the article; declaring the article to run concurrently with other leave-related laws; requiring employers to provide certain notice; detailing the process for enforcing the article; addressing erroneous payments and disqualification; permitting self-employed persons to elect coverage with certain requirements; requiring the Insurance Commissioner to establish the Family and Medical Leave Insurance Program; requiring certain disclosures related to federal income tax; creating the Family and Medical Leave Insurance Account Fund; authorizing certain expenditures from the fund and investments of the fund; requiring annual reports to the Legislature; requiring the Insurance Commissioner to implement a public education program; encouraging the Insurance Commissioner to use state data collection and technology to integrate the program with other state policies; authorizing legislative rules by a certain date; and setting an effective date.

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

**By Senator Boso:**

**Senate Bill 307**—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, and §16-54-4, all relating to creating the Nondiscrimination in Involuntary Denial of Treatment Act; requiring the provision of medical treatment under certain circumstances; requiring the disclosure of policies related to the life-preserving treatment a patient may receive or be denied; and requiring the Department of Health and Human Resources to maintain and report on certain information.

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

**By Senators Hamilton, Baldwin, Beach, Cline, Takubo, and Prezioso:**

**Senate Bill 308**—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 special natural resources police officers upon retirement; disposal of service weapon when replaced due to routine wear; furnishing uniform for burial; and making stylistic changes.

Referred to the Committee on Government Organization.

**By Senators Blair, Maroney, and Takubo:**

**Senate Bill 309**—A Bill to amend and reenact §60A-7-705 of the Code of West Virginia, 1931, as amended, relating to civil asset forfeiture; requiring the state prove that owner of seized property has been convicted of a crime and that seized property was substantially related to said crime before the state can perfect title to the seized property; and requiring the state return seized property to its owner if the state cannot meet its evidentiary burden.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Jeffries, Beach, Takubo, and Prezioso:**

**Senate Bill 310**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide discount on noncovered services; prohibiting dentists from charging more for covered persons on noncovered services than his or her customary or usual rate for the services; and providing that insurers may not provide for a nominal reimbursement for a service in order to claim that a service or material is covered.

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

**By Senators Takubo, Maroney, Stollings, Woelfel, Baldwin, Cline, Tarr, and Prezioso:**

**Senate Bill 311**—A Bill to amend and reenact §17B-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring

applicants for first-time licensing to view a video on the dangers of secondhand smoke.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Lindsay and Jeffries:**

**Senate Bill 312**—A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended, relating to requiring members of the State Police to follow the towing services policy of the county in which the member is located.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 313**—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain high school graduates shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both, that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on

the WV Invests Grant Program; requiring the council to promulgate rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 314**—A Bill to repeal §5A-6-4a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5A-6B-1, §5A-6B-2, §5A-6B-3, §5A-6B-4, and §5A-6B-5, all relating to cybersecurity of state government; removing the requirements of the Chief Technology Officer to oversee security of government information; creating the Cybersecurity Office; defining terms; providing that the Chief Information Security Officer oversee the Cybersecurity Office; authorizing the Chief Information Security Officer to create a cybersecurity framework, to assist and provide guidance to agencies in cyber-risk strategy, and setting forth other duties; providing rule-making authority; requiring agencies to undergo cyber-risk assessments; establishing scope of authority; exempting certain state entities; designating reporting requirements; requiring agencies to address any cybersecurity deficiencies; and exempting information related to cyber risk from public disclosure.

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

**By Senators Weld, Clements, Stollings, Baldwin, Hamilton, Roberts, Jeffries, Cline, Tarr, and Prezioso:**

**Senate Bill 315**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3C-1, §15-3C-2, §15-3C-3, §15-3C-4, §15-3C-5, §15-3C-6, and §15-3C-7, all relating to establishing an alert system for law-enforcement officers missing in the line of duty or person suspected of killing or inflicting life-threatening injuries upon a law-enforcement officer who remain at large; providing legislative findings and declarations

relative to the Blue Alert Plan; establishing a Blue Alert program; definitions; activating a Blue Alert; notifying participating media; broadcasting a Blue Alert; notifying the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the Blue Alert; terminating the Blue Alert; immunity from criminal or civil liability; and authorizing promulgation of guidelines and procedural rules.

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

### **Petitions**

Senator Hamilton presented a petition from Deborah J. Roach and numerous West Virginia residents, requesting an increase in funding for senior centers.

Referred to the Committee on Finance.

Senator Sypolt presented a petition from the North Central Road Caucus, requesting additional funding to cover costs of CORE maintenance on all primary roads in the Division of Highways' District 4.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 9**, US Army PFC Winten L. Ways 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 ninth order of business.

**Senate Bill 10**, Relating to Second Chance Driver's License Program.

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

**Senate Bill 24**, Relating generally to local boards of health.

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

**Senate Bill 27**, Removing restrictions on where certain traditional lottery games may be played.

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

**Senate Bill 28**, Removing hotel occupancy tax limit collected for medical care and emergency services.

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

**Senate Bill 36**, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

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

**Com. Sub. for Senate Bill 106**, Alleviating double taxation on foreign income at state level.

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

**Senate Bill 177**, Fire Commission rule relating to State Building Code.

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

**Senate Bill 190**, DOH rule relating to employment procedures.

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 three, after the word “authorized” by striking out the period and adding the following: with the following amendment:

On page three, by adding a new subsection to 2.29 to read as follows:

“2.29. ‘Premium Time’ means overtime paid at a rate of time and a half.”;

On pages three and four, by renumbering the remaining subsections;

And,

On page fourteen, section twelve after the word “premium” by inserting the word “time”.

The bill (S. B. 190), as amended, was then ordered to engrossment and third reading.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Baldwin and Hamilton.

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

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senator Hamilton were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:27 a.m., the Senate adjourned until tomorrow, Wednesday, January 16, 2019, at 11 a.m.

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## WEDNESDAY, JANUARY 16, 2019

The Senate met at 11:06 a.m.

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

Prayer was offered by the Honorable Stephen Baldwin, a senator from the tenth district.

Kenneth “Honey” Rubenstein Juvenile Center Honor Guard Cadets from Davis, West Virginia, proceeded in the presenting of the Colors. The Senate was then led in the recitation of the Pledge of Allegiance by the Honorable Kenny Mann, a senator from the tenth district.

Pending the reading of the Journal of Tuesday, January 15, 2019,

At the request of Senator Ihlenfeld, 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 fourth order of business.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 1**, Increasing access to career education and workforce training.

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

**Com. Sub. for Senate Bill 1** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact



§18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to propose legislative rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The bill (Com. Sub. for S. B. 1), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 3**, Establishing WV Small Wireless Facilities Deployment Act.

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

**Com. Sub. for Senate Bill 3** (originating in the Committee on Government Organization)—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 for certain permit requirements; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.

With the recommendation that the committee substitute do pass.

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

**Senate Bill 17**, Relating to probation eligibility.

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

**Com. Sub. for Senate Bill 17** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-2 of the Code of West Virginia, 1931, as amended, relating to eligibility for probation generally; adding the option of a psychological study and diagnosis to the studies and treatment required for a person to be eligible for probation upon conviction of certain sexually related offenses; and adding offenses involving preparation, distribution, or exhibition of obscene matter to minors to the list of offenses for which such examinations are required for probation eligibility.

And,

**Senate Bill 152**, Relating generally to criminal offense expungement.

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

**Com. Sub. for Senate Bill 152** (originating in the Committee on the Judiciary)—A Bill to repeal §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-11-26 of said code, relating generally to expungement of certain convictions; defining terms; eliminating age limitations for petitioners seeking to expunge certain misdemeanors; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies; providing exclusions from eligibility; establishing time limitations for filing a petition for expungement; creating petition requirements and court procedure for evaluating petitions for preliminary and final orders of expungement for expungable offenses; providing for preliminary orders of expungement for a felony before one may obtain a final order of expungement; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; establishing fees; clarifying that an order of expungement does not reinstate eligibility for certain benefits lost due to expunged conviction; and making technical changes.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Clements, 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 Bill 55**, Relating to driving privileges and requirements for persons under 18.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

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 119**, Specifying documents not subject to discovery in certain proceedings.

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

**Senate Bill 121**, Providing continued eligibility for developmental disability services to military members' dependents.

**Senate Bill 149**, Exempting certain veterans from concealed weapons license fees.

**Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

And,

**Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

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

Respectfully submitted,

Ryan W. Weld,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance.

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

**Senate Bill 160**, DEP rule relating to ambient air quality.

**Senate Bill 161**, DEP rule relating to standards of performance for new stationary sources.

**Senate Bill 162**, DEP rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities.

**Senate Bill 163**, DEP rule relating to emission standards for hazardous air pollutants.

**Senate Bill 164**, DEP rule relating to requirements for conformity of transportation plans, programs, and projects applicable to air quality implementation plans.

**Senate Bill 165**, DEP rule relating to provisions for determination of compliance with air quality management rules.

**Senate Bill 166**, DEP rule relating to cross-state air pollution rule to control certain emissions.

**Senate Bill 226**, Office of Miners' Health, Safety, and Training rule relating to rules and regulations governing safety of employees in and around surface mines in WV.

**Senate Bill 227**, Office of Miners' Health, Safety, and Training rule relating to submission and approval of comprehensive mine safety program.

And,

**Senate Bill 228**, Office of Miners' Health, Safety, and Training rule relating to operating diesel equipment in underground mines.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Maroney, 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

**Senate Bill 168**, DHHR rule relating to behavioral health centers licensure.

**Senate Bill 170**, DHHR rule relating to food establishments.

**Senate Bill 171**, DHHR rule relating to food manufacturing facilities.

**Senate Bill 174**, DHHR rule relating to chronic pain management clinic licensure.

And,

**Senate Bill 176**, Health Care Authority rule relating to cooperative agreement approval and compliance.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Maroney, 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

**Senate Bill 172**, DHHR rule relating to newborn screening system.

And has amended same.

And,

**Senate Bill 175**, DHHR rule relating to collection and exchange of overdose data.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

Senator Clements, 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 10** (originating in the Committee on Transportation and Infrastructure)—Amending the Joint Rules of the Senate and House of Delegates relating to resolutions.

*Resolved by the Legislature of West Virginia:*

That Rule 24 of the Joint Rules of the Senate and the House of Delegates be amended to read as follows:

### **Resolutions**

24. Resolutions requiring concurrent action may originate in either house and shall be of two kinds, namely:



*Joint Resolutions:* These resolutions shall be used for proposing amendments to the Constitution of West Virginia and for ratifying amendments to the Constitution of the United States. Joint resolutions proposing amendments to the Constitution of West Virginia shall be adopted as provided in Article XIV, Section 2 of said Constitution.

*Concurrent Resolutions:* Such resolutions shall be used for all purposes not covered by joint resolutions as defined above.

No concurrent resolution related to the naming of a bridge or other infrastructure shall be considered in the house of origin after the 41st day or considered in the other house after the 50th day.

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,

Charles H. Clements,  
*Chair.*

On motion of Senator Takubo, the resolution (S. C. R. 10) contained in the foregoing report from the Committee on Transportation and Infrastructure was then referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Plymale, Woelfel, Lindsay, Stollings, and Hamilton:**

**Senate Bill 316**—A Bill to amend and reenact §8-22-27a of the Code of West Virginia, 1931, as amended, relating to preserving previously approved pensions awarded through the state Municipal Policemen's or Municipal Firemen's Pension and Relief Funds.

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

**By Senators Maynard, Cline, and Sypolt:**

**Senate Bill 317**—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 generally to authorizing three or more adjacent counties to form a multicounty trail network authority; providing a statement of legislative purpose and findings; defining terms; providing that an authority is a public corporation and joint development entity; providing that a county that is adjacent to an authority may join the authority as a participating county upon approval of the board of the authority and the county commission of the county wishing to participate; providing that two existing authorities may merge upon approval of the boards of both authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; prescribing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; 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; and providing for severability.

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

**By Senators Trump, Rucker, Cline, Roberts, Sypolt, Tarr, Hamilton, and Azinger:**

**Senate Bill 318**—A Bill to amend and reenact §9-7-1, §9-7-3, §9-7-6, and §9-7-6a of the Code of West Virginia, 1931, as amended, all relating to transferring the Medicaid Fraud Control Unit to the Attorney General's office; establishing an effective date the Medicaid Fraud Control Unit will transfer to the Attorney General's office; establishing the Legislative Auditor to deliver a report on the performance of the Medicaid Fraud Control Unit; establishing investigation powers with the Attorney General; establishing the Secretary of the Department of Health and Human Resources may share documents with the Attorney General; establishing persons able to maintain a civil action; and establishing liability limits for employees acting in good faith.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 319**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7B-9e; and to amend and reenact §55-7B-10 of said code, all relating to attorney contingency fee contracts and collections in causes of action alleging medical professional liability.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 320**—A Bill to amend and reenact §55-7-29 of the Code of West Virginia, 1931, as amended, relating to punitive damage awards; payments of punitive damage awards; and payments of a portion of punitive damage awards to the General Revenue Fund.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 321**—A Bill to amend and reenact §17A-4-10 of the Code of West Virginia, 1931, as amended, relating to removing the requirement that a reconstructed vehicle must be inspected before being titled or registered provided that no structural parts were replaced on the vehicle.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Maynard and Maroney:**

**Senate Bill 322**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5G-2a, relating to allowing a labor union not to represent an employee who does not belong to the union.

Referred to the Committee on the Judiciary.

**By Senators Baldwin, Beach, Maynard, Romano, Rucker, Smith, Sypolt, Plymale, Cline, Roberts, Hamilton, and Stollings:**

**Senate Bill 323**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e; and to amend and reenact §19-12A-6a of said code, all relating to establishing and funding a special revenue fund to be known as the Department of Agriculture Capital Improvements Fund; creating the fund; providing for administration by Department of Agriculture; identifying sources of moneys for said fund; identifying expenditures that may be made from said fund; providing for funds to remain at end of each fiscal year; eliminating certain deposits in the General Revenue Account; permitting deposits into certain funds; and making technical corrections.

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

**By Senators Sypolt, Beach, Rucker, Smith, Weld, Boso, Cline, Clements, Tarr, and Hamilton:**

**Senate Bill 324**—A Bill to amend and reenact §19-1-3 of the Code of West Virginia, 1931, as amended, relating to employees of the Commissioner of Agriculture.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill 325**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-17, relating to creating the West Virginia Motorsport Committee; setting forth who serves on the committee; setting forth its duties; requiring meetings and hearings; and requiring reports.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 326**—A Bill to repeal §15-5-4 and §15-5-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend and reenact §15-1J-2 and §15-1J-4 of said code; to amend and reenact §15-5-1, §15-5-2, §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-24, and §15-5-26 of said code; and to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code, all relating to the reorganization of state agencies involved in emergency and disaster planning, response, recovery, and resiliency; providing legislative findings; modifying the powers and duties of the West Virginia Military Authority; designating a special revenue account to receive funding; creating the position of Director of the Military Authority and providing qualifications; modifying definitions; reorganizing the Division of Homeland Security and Emergency Management (DHSEM) within the Adjutant General's Department; authorizing the DHSEM director to be appointed to serve in a dual capacity as the Director of the Military Authority; modifying membership of the West Virginia Disaster Recovery Board; reorganizing the State Resiliency Office within the Adjutant General's Department; creating the position of Director of the State Resiliency Office; eliminating the State Resiliency Office Board; and modifying the authority and duties of the State Resiliency Office.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 327**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-2d, relating to incentives for mathematics teachers; acknowledging the importance of math instruction and the lack of certified educators to provide such instruction; requiring the Department of Education to develop or approve specialized mathematics courses; directing that the specialized mathematics courses be available to classroom teachers; directing that classroom teachers who complete the specialized mathematics courses receive a one-time \$2,000 payment; clarifying that teachers completing the specialized math courses after May 1 will receive the one-time \$2,000 payment in the following fiscal year; directing that the payment be made from the Mathematics Incentive Program line item; clarifying that payment is contingent upon legislative appropriations; directing the Department of Education to request a supplemental appropriation when the Mathematics Incentive Program line item is insufficient and how funds are to be distributed in instances when funds are insufficient to compensate all applicable teachers; clarifying that the payment is not to be counted as part of the teacher's final average salary for the purpose of calculating retirement; clarifying that no retirement contribution will be withheld from the incentive; limiting the payment to classroom teachers providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction; and exempting elementary teachers from the 60 percent limitation.

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

**By Senators Cline, Rucker, and Hamilton:**

**Senate Bill 328**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to the required teaching of an agricultural science education course.

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

**By Senators Cline and Hamilton:**

**Senate Bill 329**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-8g, relating to agricultural education in high schools; and requiring that a National FFA Organization program be offered in every West Virginia high school.

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

**By Senators Maynard and Cline:**

**Senate Bill 330**—A Bill to amend and reenact §5F-1-5 of the Code of West Virginia, 1931, as amended, relating to requiring that contact information of an official or employee of the state, who uses a mobile phone either furnished by the employer or service is paid by the employer for the official's or employee's personal phone use in state business, be listed on an agency's online directory and agency's website.

Referred to the Committee on Government Organization.

**By Senators Maynard, Cline, and Smith:**

**Senate Bill 331**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i; and to amend and reenact §20-2-16 of said code, all relating to hunting; using leashed dogs to track mortally wounded deer or bear; and clarifying the handling of dogs caught chasing deer.

Referred to the Committee on Natural Resources.

**By Senators Maynard and Cline:**

**Senate Bill 332**—A Bill to amend and reenact §20-2-46e of the Code of West Virginia, 1931, as amended, relating to Class Q special hunting permit for disabled persons; and clarifying and expanding class of persons who may obtain such permits.

Referred to the Committee on Natural Resources.

**By Senators Maynard, Boso, Sypolt, and Tarr:**

**Senate Bill 333**—A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting from personal property taxation private passenger automobiles that are 25 years old or older.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Maynard, Hamilton, Roberts, and Cline:**

**Senate Bill 334**—A Bill to amend and reenact §31D-1-131 of the Code of West Virginia, 1931, as amended, relating to the Secretary of State; and requiring the establishment of searchable databases for West Virginia registered corporation and sole proprietorship information.

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

**By Senators Maynard and Hamilton:**

**Senate Bill 335**—A Bill to amend and reenact §41-1-7 of the Code of West Virginia, 1931, as amended, relating to requiring the notification of all persons mentioned in a will before it may be altered.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 336**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, and §11-28-5, all relating to creating the West Virginia Motorsports Entertainment Complex Investment Act.

Referred to the Committee on Finance.

**By Senators Weld, Clements, Maynard, Romano, Cline, Maroney, Tarr, Smith, and Hamilton:**

**Senate Bill 337**—A Bill to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of the Division of Corrections and Rehabilitation to issue a certificate to correctional employees to



carry firearms in the course of their duties; establishing training requirements for the issuance of the certificate; establishing form of the certificate; and requiring the correctional employee to carry the certificate at all times when carrying a firearm or weapon in the course of his or her duties.

Referred to the Committee on Government Organization.

Senators Smith, Sypolt, Plymale, and Stollings offered the following resolution:

**Senate Resolution 9**—Designating January 16, 2019, as Tucker County Day at the Legislature.

Whereas, The Tucker County Cultural District Authority was established to promote the cultural, artistic, historical, educational, and recreational opportunities available in Tucker County; and

Whereas, Tucker County is home to two downhill ski areas, one Cross Country Ski Center, endless winter activities for all ages, and has established itself as a winter destination; and

Whereas, Tucker County is home to three West Virginia state parks, namely: Canaan Valley Resort State Park; Blackwater Falls State Park; and Fairfax Stone State Park, and Monongahela National Forest; and

Whereas, Tucker County enjoys a location within a few hours' drive of one of the most populated cities in the eastern United States; and

Whereas, Tucker County is home to three breweries, the only cultural district authority in West Virginia, the Potomac Stone, the newly installed paragliding site at Canaan Valley Resort, the Splash Park in Parsons, and the soon-to-be Tucker County Boulder Park; and

Whereas, Tucker County is not only a year-round outdoor recreation destination, but is now emerging as an art and cultural destination with its eccentric small towns that attract outdoor enthusiasts, artists, and beer and music lovers; and

Whereas, On the occasion of Tucker County Day at the Legislature, we hereby recognize Tucker County and its citizens for its contributions to the great State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 16, 2019, as Tucker County Day at the Legislature; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the many important contributions the citizens and businesses of Tucker County make to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Tucker County.

At the request of Senator Sypolt, 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 Takubo, and by unanimous consent, the remarks by Senators Sypolt and Smith regarding the adoption of Senate Resolution 9 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:25 a.m., the Senate recessed to present Senate Resolution 9.

The Senate reconvened at 11:28 a.m. and proceeded to the eighth order of business.

**Eng. Senate Bill 10**, Relating to Second Chance Driver's License 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton,

Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 10) 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 24**, Relating generally to local boards of health.

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 24 pass?”

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

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. 24) 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 27**, Removing restrictions on where certain traditional lottery games may be played.

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: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Prezioso, Roberts, and Unger—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. 27) 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 28**, Removing hotel occupancy tax limit collected for medical care and emergency 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 28) 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 36,** Allowing adjustment of gross income for calculating personal income liability for certain retirees.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 36) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 36) takes effect July 1, 2019.

*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 106**, Alleviating double taxation on foreign income at state level.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 106) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 106) takes effect July 1, 2019.

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

**Eng. Senate Bill 177**, Fire Commission rule relating to State Building Code.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 177) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 177) 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 190**, DOH rule relating to employment procedures.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 190) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

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. 190) takes effect from passage.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 61,** Adding certain crimes for which prosecutor may apply for wiretap.

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

**Senate Bill 272,** Updating code relating to Commission on Special Investigations.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Smith, Plymale, Beach, Swope, and Sypolt.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Smith, Plymale, Beach, Swope, and Sypolt were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:15 p.m., the Senate adjourned until tomorrow, Thursday, January 17, 2019, at 11 a.m.

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## THURSDAY, JANUARY 17, 2019

The Senate met at 11:14 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 Michael J. Maroney, a senator from the second district.

Pending the reading of the Journal of Wednesday, January 16, 2019,

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:

Environmental Protection, Department of (Waiver Report) (§22-6A-2)

Funeral Service Examiners, Board of (§30-1-12)

Hearing Aid Dealers, Board of (§30-1-12)

Natural Resources, Division of (§20-1-7)

Special Investigations, Commission on (§4-5-2)

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. House Bill 2164**—A Bill to amend and reenact §58-5-1 of the Code of West Virginia, 1931, as amended, relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals; and providing that all appeals shall be afforded a full and meaningful review, an opportunity to be heard, and a written decision on the merits.

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 2351**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating to regulating prior authorizations; defining terms; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; setting forth an effective date; providing for implementation applicability; and setting deadlines.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Bill 29**, Creating five-year tax credits for businesses on post-coal mine sites.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Economic Development pending.

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 62**, Requiring participation in drug court program before discharge of certain first-time drug offenses.

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

**Com. Sub. for Senate Bill 62** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-407a, relating to authorizing a court to require participation and successful completion of a drug court program or drug treatment program in order for a defendant, pleading or being found guilty of possession of a controlled substance which is or contains a controlled substance listed in §60A-2-204 of this code, other than marijuana, or a controlled substance listed in §60A-2-206, §60A-2-208, or §60A-2-210 of this code containing an opioid or opiate, to qualify for a final order of discharge and dismissal.

And,

**Senate Bill 240**, Repealing certain legislative rules no longer authorized or are obsolete.

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

**Com. Sub. for Senate Bill 240** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia,

1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6, and §64-12-7, all relating generally to repealing certain legislative rules promulgated by certain agencies, boards, and commissions which are no longer authorized or are obsolete; authorizing certain agencies and commissions under the Department of Administration, Department of Environmental Protection, Department of Military Affairs and Public Safety, Department of Tax and Revenue, Department of Transportation, miscellaneous agencies, boards, and commissions, and the Bureau of Commerce to repeal certain legislative rules; repealing the Department of Administration legislative rule relating to the state Purchasing Card Program; repealing the Department of Environmental Protection legislative rule relating to abandoned mine lands reclamation; repealing the Department of Environmental Protection legislative rule relating to certification of gas wells; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to criteria and procedures for determination of projected cost per day for inmates incarcerated in regional jails operated by the authority; repealing the Insurance Commission legislative rule relating to health insurance benefits for temporomandibular and craniomandibular disorders; repealing the Insurance Commission legislative rule relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies; repealing the Insurance Commission legislative rule relating to external review of coverage denials; repealing the Insurance Commission legislative rule relating to mental health parity; repealing the Insurance Commission legislative rule relating to small employer eligibility requirements; repealing the Division of Motor Vehicles legislative rule relating to eligibility for reinstatement following suspension or revocation of driving privileges; repealing the Board of Social Work Examiners legislative rule relating to applications; repealing the Division of Labor legislative rule relating to hazardous chemical substances; and repealing the Division of Labor legislative rule relating to the Safety Glazing Act.

With the recommendation that the two committee substitutes 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

**Senate Bill 180**, State Tax Department rule relating to payment of taxes by electronic funds transfer.

**Senate Bill 181**, State Tax Department rule relating to aircraft operated under a fractional ownership program.

**Senate Bill 182**, State Tax Department rule relating to senior citizen tax credit for property taxes paid.

And,

**Senate Bill 183**, State Tax Department rule relating to administration of tax on purchases of wine and liquor inside and outside of municipalities.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 191**, Agriculture Commissioner rule relating to animal disease control.

And,

**Senate Bill 192**, Agriculture Commissioner rule relating to industrial hemp.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Pensions has had under consideration

**Senate Bill 296**, Providing 11-month window to permit members of PERS to purchase credited service.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Rucker, Boso, Cline, Maynard, Smith, Sypolt, Tarr, Unger, Jeffries, Woelfel, Stollings, Azinger, Swope, Roberts, Maroney, and Lindsay:**

**Senate Bill 338**—A Bill to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating to dangerous weapons; defining “pepper spray”; exempting pepper spray from definition of “deadly weapons”; and providing that persons over 16 years of age may carry pepper spray for the purpose of self-defense.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Azinger, Boso, Cline, Maynard, Sypolt, Tarr, Swope, and Roberts:**

**Senate Bill 339**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-2 of said code, all relating to defining “pepper spray”; exempting pepper spray from definition of “deadly weapons”; providing that persons over 16 years of age may carry pepper spray for the purpose of self-defense; and providing that such persons may carry pepper spray in the State Capitol Complex.

Referred to the Committee on the Judiciary.

**By Senators Trump and Stollings:**

**Senate Bill 340**—A Bill to repeal §33-20E-1, §33-20E-2, §33-20E-3, §33-20E-4, §33-20E-5, §33-20E-6, §33-20E-7, §33-20E-8, §33-20E-9, §33-20E-10, §33-20E-11, §33-20E-12, §33-20E-13, §33-20E-14, §33-20E-15, §33-20E-16, §33-20E-17, §33-20E-18, §33-20E-19, §33-20E-20, and §33-20E-21 of the Code of West Virginia, 1931, as amended; and to repeal §33-20F-1, §33-20F-1a, §33-20F-2, §33-20F-3, §33-20F-4, §33-20F-5, §33-20F-7, §33-20F-8, §33-20F-9, §33-20F-10, §33-20F-11, and §33-20F-12 of said code, relating to obsolete provisions for the initial formation and operation of the West Virginia Medical Professional Liability



Insurance Joint Underwriting Association and the West Virginia Physicians' Mutual Insurance Company.

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

**By Senators Sypolt, Jeffries, Smith, Baldwin, Ihlenfeld, and Hamilton:**

**Senate Bill 341**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22l; and to amend said code by adding thereto a new section, designated §18-7A-26w, all relating to establishing a minimum monthly retirement annuity of \$750 for those retirants with 20 or more years of credited service.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 342**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting Social Security and tier one railroad retirement benefits from personal income tax; specifying an effective date; and removing obsolete language.

Referred to the Committee on Finance.

Senators Clements, Maroney, Boley, Azinger, Stollings, Sypolt, and Swope offered the following resolution:

**Senate Resolution 10**—Congratulating the Ritchie County High School boys' cross-country team for winning the 2018 Class AA/A Cross-Country State Championship.

Whereas, The 2018 Ritchie County High School boys' cross-country team had an extraordinary season which culminated in the school's first ever Class AA/A state championship; and

Whereas, In route to winning the state championship, the Ritchie County High School boys' cross-country team also

captured the Region 1 Championship and the Little Kanawha Conference Championship; and

Whereas, The Ritchie County boys' cross-country team is led by head coach, Holli Haddox Vaughan, and assistant coaches, Paula Hogue and David Bee; and

Whereas, The Ritchie County High School boys' cross-country team roster consists of: Clayton Bee, Jarett Allender, Kent Bee, Adam Davis, Brady Layman, Gabriel Morrison, Isaac Slater, Huston Deem, Brenden Davis, Logan Hostuttler, Michael Jones, Dalton Hayes, Creed Knight, Zachary Bixman, J.D. Henderson, and Anden Keen; and

Whereas, The Ritchie County High School boys' cross-country team displayed its strong will and determination for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2018 Ritchie County High School boys' cross-country team will be remembered as one of the best cross-country teams ever assembled in West Virginia high school history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Ritchie County High School boys' cross-country team for winning the 2018 Class AA/A Cross Country State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Ritchie County High School boys' cross-country team.

At the request of Senator Maroney, 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 Takubo, and by unanimous consent, the remarks by Senator Maroney regarding the adoption of Senate Resolution 10 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:27 a.m., the Senate recessed to present Senate Resolution 10.

The Senate reconvened at 11:32 a.m. and proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 61**, Adding certain crimes for which prosecutor may apply for wiretap.

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

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

**Senate Bill 272**, Updating code relating to Commission on Special Investigations.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 3**, Establishing WV Small Wireless Facilities Deployment Act.

**Com. Sub. for Senate Bill 17**, Relating to probation eligibility.

**Senate Bill 119**, Specifying documents not subject to discovery in certain proceedings.

And,

**Com. Sub. for Senate Bill 152**, Relating generally to criminal offense expungement.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Clements, Hamilton, Weld, Roberts, Boso, Cline, Swope, Woelfel, Mann, Smith, and Tarr.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Hamilton, Weld, Roberts, Boso, Cline, Swope, Woelfel, Mann, Smith, and Tarr were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the respective requests of Senators Baldwin, Jeffries, and Lindsay, the names of Senators Baldwin, Jeffries, and Lindsay were removed as sponsors of **Senate Bill 92** (*Providing special license plate supporting adoption*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:02 p.m., the Senate adjourned until tomorrow, Friday, January 18, 2019, at 11 a.m.

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## FRIDAY, JANUARY 18, 2019

The Senate met at 11:06 a.m.

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

Prayer was offered by the Reverend Dick Corbin, Director of Church Relations, Union Mission of West Virginia, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Gregory L. Boso, a senator from the eleventh district.

Pending the reading of the Journal of Thursday, January 17, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2028**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to public service districts' laying of water lines, sewer lines, utilities or pipelines on state rights-of-way; limiting the onsite time required supervision by a state engineer; and requiring payment and performance bonds to cover a reasonable length of time for defects to be discovered.

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 2038**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1A-2a, relating to the procedure to determine if an occupation or profession should be regulated; providing when an application to regulate is prohibited; providing for the legislative auditor to review other state occupation and professional regulations; and providing for the sunset of occupation or professional regulation.

Referred to the Committee on Government Organization; and then 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 2128**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-29, relating to allowing state employees to take paid leave to attend parent-teacher conferences for their children.

Referred to the Committee on Government Organization; and then 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 2183**—A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, clarifying that the offense of driving under the influence of alcohol, controlled substances, or drugs must, in instances not causing bodily injury or death, be for circumstances where the operator is upon a public highway, or is on a private road either before or after entering or exiting a public highway.

Referred to the Committee on the Judiciary.

### **Executive Communications**

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



*Jim Justice*  
*Governor of West Virginia*

January 17, 2019

The Honorable Mac Warner  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305

Dear Secretary Warner:

Pursuant to W.Va. Code § 3-10-5, I have this day appointed the Honorable Paul Hardesty, Post Office Box 652, Holden, Logan County, West Virginia 25625, as a Senator representing the Seventh Senatorial District, to fill the vacancy created by the resignation of the Honorable Richard N. Ojeda II from this day through the remainder of the unexpired term of said office.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice  
Governor

cc: President of the Senate  
Speaker of the House  
Clerk of the Senate  
Clerk of the House of Delegates  
West Virginia Ethics Commission

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 1** (originating in the Committee on Education), Increasing access to career education and workforce training.

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

**Com. Sub. for Com. Sub. for Senate Bill 1** (originating in the Committee on Finance)—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on



the WV Invests Grant Program; requiring the council to propose legislative rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

With the recommendation that the committee substitute for committee substitute 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

**Senate Bill 18**, Relating to crimes committed on State Capitol Complex.

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

**Com. Sub. for Senate Bill 18** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to crimes against the peace generally; offenses occurring at State Capitol Complex property; and removing the requirement that a person lawfully entitled to possess a firearm must have a concealed weapons permit to have a firearm in his or her vehicle on the State Capitol Complex.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Maroney, 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

**Senate Bill 63**, Relating to partial filling of prescriptions.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Health and Human Resources pending.

Senator Maroney, 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

**Senate Bill 136**, Relating to tobacco usage and e-cigarette restrictions.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Senator Maroney, 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

**Senate Bill 169**, DHHR rule relating to assisted living residences.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Health and Human Resources pending.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 255**, Relating to Emergency Medical Services Advisory Committee.

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

**Com. Sub. for Senate Bill 255** (originating in the Committee on Government Organization)—A Bill to amend and reenact §16-

4C-5 of the Code of West Virginia, 1931, as amended, relating generally to the Emergency Medical Services Advisory Council; reconfiguring and increasing the membership of the council by adding three voting citizen-members; and requiring three members to be representative of professional groups.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 271**, Concerning government procurement of commodities and services.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 292**, Relating to fire service equipment and training funds for volunteer VFDs.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Senator Maroney, 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

**Senate Bill 310**, Establishing certain requirements for dental insurance.

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

**Com. Sub. for Senate Bill 310** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide discount on noncovered services; prohibiting dentists from charging more for covered persons on noncovered services than his or her customary or usual rate for the services; and providing that insurers may not provide for a nominal reimbursement for a service in order to claim that a service or material is covered.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 310), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Carmichael (Mr. President) and Prezioso:**

**Senate Bill 343**—A Bill to amend and reenact §5A-10-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-10-12, all relating to the review and approval of state property leases by requiring two signatures; and reviewing and approving the lease of state property to nongovernmental entities.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President), Prezioso, and Cline:**

**Senate Bill 344**—A Bill to repeal §19-12A-3, §19-12A-4, and §19-12A-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-12A-1, §19-12A-2, §19-12A-5, §19-12A-6, §19-12A-6a, and §19-12A-8 of said code, all relating to the operation of state-owned farms; clarifying that state-owned farms are managed by the Commissioner of the Department of Agriculture; removing reference to Farm Management Commission; defining the term “commissioner”; removing language regarding organization and duties of Farm Management Commission; removing language regarding prior transfer of institutional land to the Farm Management Commission; replace outdated language referencing the Department of Health and Human Resources and Division of Corrections and Rehabilitation;

providing that state institutions may purchase items from vendors that state-owned farms cannot directly produce; and removing references to farm management director and replacing with commissioner.

Referred to the Committee on Agriculture and Rural Development.

**By Senators Carmichael (Mr. President) and Prezioso:**

**Senate Bill 345**—A Bill to amend and reenact §12-4-14 of the Code of West Virginia, 1931, as amended, relating to adding the definition of “grantee” to include state spending units and local governments; and requiring grantees to report state grant spending information to grantors.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President) and Prezioso:**

**Senate Bill 346**—A Bill to amend and reenact §6-7-5 of the Code of West Virginia, 1931, as amended, relating to changing the rate at which certain judges are paid for mileage when traveling within the state.

Referred to the Committee on Finance.

**By Senators Clements, Boso, Maroney, Smith, Trump, Woelfel, Stollings, Cline, and Sypolt:**

**Senate Bill 347**—A Bill to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended, relating to limiting the civil penalty for persons convicted of littering to an amount up to \$2,000.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Maroney, Prezioso, Stollings, Jeffries, Woelfel, Ihlenfeld, Baldwin, and Cline:**

**Senate Bill 348**—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-7, and §16-9A-8 of the Code of West Virginia, 1931, as amended, all relating to tobacco usage restrictions; legislative findings and intent; and raising the legal age

for the purchase of tobacco, tobacco products, tobacco-derived products, alternative nicotine products, and vapor products to 21.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 349**—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to allowing an individual to petition a circuit court for the expungement of misdemeanor offenses; requiring that the petition may be filed not fewer than 90 consecutive days after the successful compliance with a West Virginia Department of Health and Human Resources approved substance abuse treatment and counseling program and graduation from a West Virginia Department of Education approved Job Readiness Adult Training course, and entering into an agreement with the Department of Health and Human Resources to undergo random drug screenings if required by an employer for a period not to exceed 24 months, with no subsequent violations or random drug test failures after the petitioner began the rehabilitation and counseling program and the adult training course; setting forth what the petition must contain; limiting the number of expungements; and setting forth a fee.

Referred to the Committee on the Judiciary.

**By Senators Unger, Hamilton, Romano, Cline, and Prezioso:**

**Senate Bill 350**—A Bill to amend and reenact §5H-1-1 of the Code of West Virginia, 1931, as amended, relating to defining terms to assure that correctional officers are considered law-enforcement officers for the purpose of the West Virginia Fire, EMS, and Law-Enforcement Survivor Benefit Act.

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

**By Senators Maynard, Blair, and Cline:**

**Senate Bill 351**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to lobbying by state boards and commissions.



Referred to the Committee on the Judiciary.

**By Senators Weld and Cline:**

**Senate Bill 352**—A Bill to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15A-3-14a, all relating to the Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities; clarifying notice requirements; allowing the division to require surety; allowing the division to utilize best value procurement; clarifying the manner under which the division is to cancel a contract; clarifying the surety requirement; providing a method to award a contract after cancellation; allowing for sole source procurement; disqualifying vendors to whom the division may award a contract; allowing the division to run criminal background checks, financial background checks, licensing background checks, and credit checks to ensure the ability to award a contract; creating a special revenue fund; and providing for methods of disposition of surplus property owned by the division.

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

**By Senators Woelfel, Trump, Plymale, Lindsay, Unger, Stollings, Romano, Cline, and Prezioso:**

**Senate Bill 353**—A Bill to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all relating to increasing salaries of magistrates, supreme court justices, circuit court judges, and family court judges pursuant to the 2018 recommendations of the Judicial Compensation Commission.

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

Senators Clements, Roberts, Rucker, Palumbo, Jeffries, Woelfel, Plymale, Swope, Boso, Unger, Sypolt, Stollings, Romano, Beach, Blair, Baldwin, Smith, Cline, Prezioso, Lindsay, and Hamilton offered the following resolution:

**Senate Concurrent Resolution 11**—Urging Congress to pass fully funded, long-term surface transportation and infrastructure funding measures that address our nation’s critical infrastructure needs.

Whereas, West Virginia faces unique challenges maintaining its infrastructure, including bridges and roads, due in part to its topography, location, industries, and population; and

Whereas, A recent infrastructure report card from the American Society of Civil Engineers noted that 17.3 percent of West Virginia’s 1,247 bridges are structurally deficient and 19 percent of West Virginia’s 38,770 miles of public roads are in poor condition; and

Whereas, West Virginia depends on good roads and infrastructure for tourism and economic development; and

Whereas, All states depend on Congress for their infrastructure needs; and

Whereas, It is up to Congress to pass fully funded, long-term funding measures to improve our nation’s roads and address our country’s infrastructure needs, including those in West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Congress is urged to pass fully funded, long-term surface transportation and infrastructure funding measures that address our nation’s critical infrastructure needs; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia’s congressional delegation.

At the request of Senator Clements, 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, and on this question, Senator Clements demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. C. R. 11) adopted.

*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 Clements regarding the adoption of Senate Concurrent Resolution 11 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned 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 354** (originating in the Committee on Finance)—A Bill expiring funds to the balance of the Auditor's Office – Chief Inspector's Fund, fund 1235, fiscal year 2019, organization 1200, in the amount of \$1,500,000, from the Auditor's Office – Securities Regulation Fund, fund 1225, fiscal year 2019, organization 1200, by supplementing and amending chapter one, Acts of the Legislature, 2018, known as the budget bill.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 272**, Updating code relating to Commission on Special Investigations.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 272) 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.

**Com. Sub. for Senate Bill 3**, Establishing WV Small Wireless Facilities Deployment Act.

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

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

**Com. Sub. for Senate Bill 17**, Relating to probation eligibility.

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

**Com. Sub. for Senate Bill 61**, Adding certain crimes for which prosecutor may apply for wiretap.

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

On motions of Senators Trump and Weld, 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 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 this code to the extent that any of said sections provide for offenses punishable as a felony; (3) felony violations of §60A-1-101 *et seq.* of this code; (4) 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; (10) treason as defined in §61-1-1 of this code; (11) murder as defined in §61-2-1 of this code; (12) robbery as defined in §61-2-12(a) of this code, (13) extortion or attempted extortion as defined in §61-2-13 of this code; (14) participation in an organized criminal enterprise as defined in §61-13-2 of this code; or (15) any aider or abettor to any of the offenses referenced in this section or any conspiracy commit any of the offenses referenced in this section if any aider, abettor, or conspirator is a party to the communication to be intercepted.

The bill (Com. Sub. for S. B. 61), as amended, was then ordered to engrossment and third reading.

**Senate Bill 119**, Specifying documents not subject to discovery in certain proceedings.

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

**Com. Sub. for Senate Bill 152**, Relating generally to criminal offense expungement.

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

At the request of Senator Trump, 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.

**Com. Sub. for Senate Bill 62**, Requiring participation in drug court program before discharge of certain first-time drug offenses.

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

**Com. Sub. for Senate Bill 240**, Repealing certain legislative rules no longer authorized or are obsolete.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Rucker.

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

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Mann.

The Senate proceeded to the thirteenth order of business.

Senator Carmichael (Mr. President) announced that the several oaths of office prescribed by the Constitution were administered by the Honorable William S. Thompson, Judge of the Twenty-Fifth Judicial Circuit of West Virginia, to Paul Hardesty, of the County of Logan, on January 18, 2019.

Senator Carmichael (Mr. President) then announced the appointment of Senator Hardesty to the Committee on the Judiciary, the Committee on Agriculture and Rural Development, the Committee on Military, the Committee on Interstate Cooperation, and the Committee on Natural Resources.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:38 a.m., the Senate adjourned until Monday, January 21, 2019, at 11 a.m.

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## MONDAY, JANUARY 21, 2019

The Senate met at 11:10 a.m.

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

Prayer was offered by Pastor Paul Coon, Hernshaw United Methodist Church, Hernshaw, West Virginia, and Coal Fork United Methodist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Dave Sypolt, a senator from the fourteenth district.

Pending the reading of the Journal of Friday, January 18, 2019,

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.

The Senate then proceeded to the third order of business.

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

**Eng. House Bill 2185**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to the removal of animals left unattended in motor vehicles; defining terms, setting forth conditions likely to cause injury or death to an animal confined in a motor vehicle; setting forth circumstances and actions which may be taken by designated individuals to rescue and retrieve an animal in danger in an unattended vehicle; providing for written notice to the owner of the motor vehicle; providing for payment of fees and costs associated with the maintenance, care and medical treatment of an animal; limiting search of a motor vehicle during rescue; providing for seizure of items found in certain circumstances; providing for civil and criminal immunity



to agencies or municipalities and their employees or agents who retrieve an animal; providing judicial discretion for psychological or psychiatric evaluation; and providing for criminal penalties.

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 2307**—A Bill to amend and reenact §30-27-9 of the Code of West Virginia, 1931, as amended, relating to barbering and cosmetology; removing certain requirements to take an examination for a license; to establish a provisional license to practice in this state by an applicant with an expired license from another state; and directing the board to set the applicable fees for a provisional license.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 193**, Agriculture Commissioner rule relating to rural rehabilitation loan program.

**Senate Bill 194**, Agriculture Commissioner rule relating to captive cervid farming.

**Senate Bill 195**, Agriculture Commissioner rule relating to farm-to-food bank tax credit.

**Senate Bill 196**, Agriculture Commissioner rule relating to agritourism.

**Senate Bill 197**, Agriculture Commissioner rule relating to farmers markets.

And,

**Senate Bill 198**, Agriculture Commissioner rule relating to seed certification program.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 223, 224, 225, 226, 227, 228, 229, and 230**, Division of Labor rule relating to wage payment and collection.

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

**Com. Sub. for Senate Bill 223** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-10-1, §64-10-2, and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing agencies of the Department of Commerce to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection; authorizing the Division of Labor to promulgate a legislative rule relating to child labor; authorizing the Division of Labor to promulgate a legislative rule relating to regulation of heating, ventilating, and cooling work; authorizing the Office of Miners' Health, Safety, and Training to promulgate a

legislative rule relating to rules and regulations governing the safety of those employed in and around surface mines in West Virginia; authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules and regulations governing the submission and approval of a comprehensive mine safety program for coal mining operations in the State of West Virginia; authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules for operating diesel equipment in underground mines in West Virginia; authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; and authorizing the Division of Natural Resources to promulgate a legislative rule relating to rules for Cabwaylingo State Forest trail system two-year pilot project permitting ATVs and ORVs.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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

**Com. Sub. for Senate Bill 253** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, and §46A-6N-6, all relating to automatic purchase renewal offers and continuous service offers; stating legislative intent; defining

terms; setting notice and disclosure requirements for automatic purchase renewal offers and continuous service offers; providing that a business may not charge the consumer for an automatic renewal or continuous services without first obtaining the consumer's affirmative consent; providing acknowledgement requirements; providing that the business shall disclose how to cancel the automatic renewal or continuous service before the consumer pays if the offer includes a free gift or trial; providing that a business shall provide certain mechanism for cancellation of the automatic renewal or continuous offer in the acknowledgement; requiring a business to provide contact information to the consumer; providing means for terminating the automatic renewal or continuous service offer online; providing notice requirements in the case of material changes in the terms of the automatic renewal or continuous service; providing that the business shall provide to the consumer a reminder of the recurring charge and information on how the consumer may cancel at least 30 days prior to the charge in the case of automatic renewal or continuous service offers of certain frequency; providing a period of application; providing that goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer when the business sends any goods, wares, merchandise, or products to a consumer without first obtaining the consumer's affirmative consent under a continuous service agreement or automatic renewal of a purchase; providing a civil cause of action; providing statutory penalties; providing that no action may be brought until written notice is provided by the consumer, or his or her representative, to the business; providing written notice requirements; providing mailing requirements; providing the business an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for the business to remit payment, if any, as specified in the accepted cure offer; providing that a claim may be brought for failure of the business to timely effect the accepted cure offer; providing that the written notice is a jurisdictional prerequisite to bringing a cause of action; providing the court discretion to award plaintiff costs of the action, including reasonable attorneys' fees; providing that plaintiff is not entitled to costs and attorneys' fees under certain circumstances; providing a

statute of limitations; providing that the statute of limitations shall be tolled; and stating exemptions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Azinger, Maynard, Smith, Sypolt, Cline, Tarr, and Hamilton:**

**Senate Bill 355**—A Bill to amend and reenact §8-12-5a of the Code of West Virginia, 1931, as amended, relating to removing authority of municipalities to restrict firearm possession without a valid concealed handgun license in certain areas during brief temporary events.

Referred to the Committee on the Judiciary.

**By Senators Weld, Clements, Maroney, Cline, and Swope:**

**Senate Bill 356**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-1-7, relating to authorizing the Division of Corrections and Rehabilitation to release to county prosecutors of this state and the United States Attorney certain information which may be required for the prosecution of a criminal action; and immunities.

Referred to the Committee on the Judiciary.

**By Senators Weld, Clements, and Cline:**

**Senate Bill 357**—A Bill to repeal §15-9A-1, §15-9A-2, §15-9A-3, and §15-9A-4 of the Code of West Virginia, 1931, as

amended; to amend and reenact §15A-2-1 and §15A-2-3 of said code; and to amend said code by adding thereto two new sections, designated §15A-2-4 and §15A-2-5, all relating to the Division of Administrative Services; executive and administrative support services; grant services; designating the division as the state administrative agency for grants; code references to the Division of Justice and Community Services; transfer of employees; criminal justice and grant administration; rules; and Human Trafficking Assistance Notices.

Referred to the Committee on Government Organization.

**By Senators Weld, Clements, Cline, and Swope:**

**Senate Bill 358**—A Bill to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to exempting from the Purchasing Division purchases made by the Director of the Division of Protective Services for equipment to maintain security at state facilities.

Referred to the Committee on Government Organization.

**By Senators Maroney, Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Weld, Woelfel, Cline, Swope, and Hardesty:**

**Senate Bill 359**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, and §47-12-6, all relating to creating the Youth Mental Health Protection Act; setting forth legislative findings; setting forth a purpose; defining terms; providing for a prohibition on conversion therapy; setting forth a prohibition for referral services for conversion therapy; and providing for disciplinary actions against providers who violate the article.

Referred to the Committee on Health and Human Resources.

**By Senator Trump:**

**Senate Bill 360**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§46A-6O-1, §46A-6O-2, §46A-6O-3, §46A-6O-4, §46A-6O-5, §46A-6O-6, §46A-6O-7, §46A-6O-8, and §46A-6O-9, all relating to third-party litigation financing; providing that a litigation financier shall register as a litigation financier in this state; providing registration requirements for business entities, partnerships, and individuals; providing that litigation financiers shall secure a bond or an irrevocable letter of credit; providing to whom the bond is payable; requiring that the litigation financiers amend their registration if their information changes or becomes inaccurate; providing that the Secretary of State may promulgate rules; providing that the terms of the litigation financing transaction shall be set forth in a completed, written contract; providing that the litigation financing contract shall contain a right of rescission; providing that a litigation financing contract shall contain certain written acknowledgements and disclosures; providing that a litigation financier shall not pay, or offer to pay, commissions, referral fees, or other consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the litigation financier; providing that a litigation financier shall not accept commissions, referral fees, or other consideration; providing that a litigation financier shall not advertise false or misleading information; providing that a litigation financier shall not refer a consumer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist; providing an exception; providing that a litigation financier shall supply copies of the contract to the consumer or consumer's attorney; providing that a litigation financier shall not attempt to waive any of a consumer's remedies; providing that a litigation financier shall not attempt to effect arbitration or otherwise effect waiver of a consumer's right to a jury trial; providing that a litigation financier shall not offer legal advice; providing that a litigation financier shall not assign the litigation financing contract; providing that a litigation financing contract shall contain certain disclosures and terms; providing form disclosures; providing that a violation shall render the contract unenforceable; providing that a court may award costs and attorneys' fees against defendant; clarifying authority of the Attorney General; providing that a contingent right to receive an amount under a legal claim may be assigned by a consumer;

providing a priority of liens; providing exceptions for certain liens and claims; providing a maximum annual fee; providing maximum frequency annual fee charges; providing that fees may compound semiannually but not based on any lesser time period; providing means for calculating annual percentage fee or rate of return; providing maximum terms for fees; and restricting incorporation of prior obligations.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 361**—A Bill to amend and reenact §29-21-6 of the Code of West Virginia, 1931, as amended, relating to Public Defender Services; authorizing the executive director to establish and operate a habeas division; providing that the executive director shall be the director of the habeas division; providing for the representation of eligible clients upon appointment by the circuit courts or the Supreme Court of Appeals; providing for limitations on appointments for conflicts of interest or extreme caseloads; and authorizing the executive director to employ attorneys and support staff to perform the duties of the habeas division.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 362**—A Bill to amend and reenact §33-30-6 of the Code of West Virginia, 1931, as amended, relating to the Mine Subsidence Insurance Program administered by the Board of Risk and Insurance Management; providing that when a policyholder has another source of insurance or remuneration for a covered loss, the mine subsidence insurance covers only the portion of the claim not covered by other sources; and providing that any recovery from other sources of insurance or remuneration for a claim will be first applied to property damage.

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

**By Senator Baldwin:**

**Senate Bill 363**—A Bill to amend and reenact §11-6B-3 of the Code of West Virginia, 1931, as amended, relating to exempting



the first \$150,000 of the assessed value of a person's primary residence in this state if the person is a veteran and is permanently and totally physically or mentally disabled.

Referred to the Committee on Finance.

**By Senators Baldwin, Azinger, Beach, Boso, Clements, Cline, Ihlenfeld, Jeffries, Lindsay, Maynard, Roberts, Romano, Swope, Sypolt, Tarr, Unger, Weld, Woelfel, Stollings, Maroney, Prezioso, and Hardesty:**

**Senate Bill 364**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5S-9a, relating to creation of the shared table initiative for senior citizens who suffer from food insecurity; stating findings; acknowledging the success of a similar initiative in public schools; stating the purpose of the bill; granting rule-making authority with certain minimum contents; stating certain requirements for guidelines and guidance policies; stating certain requirements regarding health guidelines, compliance, and coverage; authorizing certain collaboration; and authorizing the Bureau for Senior Services to make certain requirements.

Referred to the Committee on Government Organization.

**By Senators Plymale, Baldwin, Woelfel, and Stollings:**

**Senate Bill 365**—A Bill to amend and reenact §11-19-1 and §11-19-2 of the Code of West Virginia, 1931, as amended, all relating to redistributing the revenue-generated excise tax on bottled soft drinks to all four-year medical schools in the state.

Referred to the Committee on Finance.

**By Senators Blair, Maroney, and Cline:**

**Senate Bill 366**—A Bill to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating generally to the Division of Protective Services; authorizing the Director of the Division of Protective Services to issue electronic key cards to qualified applicants for entry into the State Capitol without the necessity of entering the building and undergoing in-person, point of entry security screening; requiring the submission of an

application for a key card and a nonrefundable fee therefor; affording the director the discretion to issue, revoke, or deactivate a key card for good cause shown; requiring the depositing of application fees in the Common Facilities Maintenance Fund; requiring the proposing of legislative rules; and authorizing the promulgation of emergency rules.

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

**By Senators Carmichael (Mr. President) and Prezioso:**

**Senate Bill 367**—A Bill to amend and reenact §60-3-15, §60-3-17, and §60-3-18 of the Code of West Virginia, 1931, as amended, all relating to the amount permitted to remain in the West Virginia Alcohol Beverage Control Administration's operating fund; and providing for reports regarding the fund balance to ensure operations are maintained.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso:**

**Senate Bill 368**—A Bill to amend and reenact §29-12-5 of the Code of West Virginia, 1931, as amended, relating to requiring a charitable or public service organization to submit a certifying statement attesting to its status as a charitable or public service organization.

Referred to the Committee on Banking and Insurance.

**By Senators Takubo, Stollings, and Baldwin:**

**Senate Bill 369**—A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating generally to generic drug products; providing definitions; providing that when a pharmacist substitutes a drug the patient shall receive the savings which shall be equal to the difference in acquisition cost of the product prescribed and the acquisition cost of the substituted product; providing an exception for covered individuals; and clarifying that the West Virginia Board of Pharmacy has primary responsibility for enforcement.

Referred to the Committee on the Judiciary.

**By Senators Ihlenfeld, Baldwin, and Hamilton:**

**Senate Bill 370**—A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting members of the Legislature and part-time public officials from having an interest in public contracts under certain circumstances; requiring certain disclosures; and requiring the Ethics Commission to conduct oversight and make a public statement in certain circumstances.

Referred to the Committee on Government Organization.

**By Senator Unger:**

**Senate Bill 371**—A Bill to amend and reenact §64-3-1a of the Code of West Virginia, 1931, as amended, relating to directing certain amendments to Department of Environmental Protection rules relating to Air Quality and Water Resources; clarifying when certain notice requirements may be met; requiring a public hearing to be held for all permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality; detailing certain requirements for the public hearing; and requiring a public hearing be held in the community for all permits under the National Pollutant Discharge Elimination System Program.

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

**By Senator Plymale:**

**Senate Bill 372**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-5h, relating to authorizing municipalities to establish a low-cost alternative energy revolving loan program; defining terms; setting certain requirements for the program; requiring the adoption of an ordinance if the municipality decides to establish the program; setting forth certain provisions that must be contained in the ordinance; requiring interest rates to be below prevailing market rates; creating certain requirements for seeding the fund; and requiring quarterly reports with certain information.

Referred to the Committee on Government Organization.

**By Senators Weld, Clements, and Maroney:**

**Senate Bill 373**—A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates in relation to civil awards and previously entered court ordered obligations.

Referred to the Committee on the Judiciary.

**By Senators Maynard and Cline:**

**Senate Bill 374**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-25-2a, relating to eliminating the liability of owners of active mine lands, abandoned mine lands, and active or inactive railway lines to any person who may enter upon those premises.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 375**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-15, relating to providing the Curator of Arts, Culture, and History with the authority to designate road as “Historic Route”; establishing rule-making authority; and mandatory collaboration with the Division of Highways to create and erect signs.

Referred to the Committee on Transportation and Infrastructure.

**By Senator Maynard:**

**Senate Bill 376**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §8B-1-1, §8B-1-2, §8B-1-3, §8B-1-4, §8B-1-5, and §8B-1-6, all relating to creating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other legal requirements; providing a short title; setting forth legislative findings and declarations; defining terms; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates

information requested, required, or excluded on an application for employment; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay a wage higher than any applicable state or federal law; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay wages or fringe benefits based on a rate prevailing in the locality or the state; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulate work stoppages, strike activity, or means by which employees organize; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to provide paid or unpaid leave time; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer or its employees to participate in an apprenticeship or apprenticeship training program not required by federal or state law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates an employee's hours and scheduling; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards or requirements regarding the sale or marketing of consumer merchandise that are different from or in addition to state law; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards of care or conduct for certain professions; providing for civil relief; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to recover damages, including compensatory and punitive damages, costs and attorney's fees, injunctive relief, or any other appropriate equitable relief against any political subdivision violating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; providing

exceptions; clarifying effect on prior written agreements; providing that any prohibited ordinance, regulation, local policy, local resolution, or other legal requirement in effect prior to the effective date of chapter is void; providing that the prohibitions do not apply to employees of a political subdivision; and clarifying the effect on the West Virginia Alcohol and Drug-Free Workplace Act.

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

**By Senator Maynard:**

**Senate Bill 377**—A Bill to amend and reenact §21-5C-1 of the Code of West Virginia, 1931, as amended, relating to minimum wage and maximum hour standards for employees; excluding seasonal amusement park workers from maximum hour requirements; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Cline, Roberts, Woelfel, and Stollings:**

**Senate Bill 378**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-17A-8, relating to providing for special obligation notes to finance construction of completion of Interstate 73 and Interstate 74 through West Virginia; and providing for the repayment of the bonds by unmanned toll booth collections.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Maynard, Azinger, Cline, Roberts, Tarr, Maroney, and Hamilton:**

**Senate Bill 379**—A Bill to amend and reenact §18-2-7b of the Code of West Virginia, 1931, as amended, relating to permitting the county boards of education to include faith-based electives in classroom drug prevention programs.

Referred to the Committee on Education.

**By Senators Maynard and Cline:**

**Senate Bill 380**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-21, relating to empowering municipalities to enact Adopt-A-Street programs; and establishing eligibility criteria.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill 381**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7d, relating to requiring the State Board of Education to develop a program of instruction on home maintenance for the elderly and the disabled.

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

**By Senators Maynard and Cline:**

**Senate Bill 382**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j, relating to exempting senior citizens from personal income tax.

Referred to the Committee on Finance.

**By Senators Clements, Sypolt, and Cline:**

**Senate Bill 383**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, §19-36-5, §19-36-6, and §19-36-7, all relating to creating West Virginia Healthy Food Crop Block Grant Program; stating findings; defining terms; creating fund; providing general revenue to fund grants for five years; partnering with nonprofit food and farm organization; establishing grant selection committee and membership; providing method for allocating grants; limiting grants; providing for rulemaking; and establishing program review reports.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators Smith, Clements, Sypolt, Maroney, and Hamilton:**

**Senate Bill 384**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9; and to amend and reenact §55-12A-7 of said code, all relating to providing that proceeds from certain oil and gas wells that are due to persons whose name or address are unknown are to be kept in a special fund and if unclaimed within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund; providing that if there is a surface disturbance those named surface owners of a leased interest subject to pooling for a horizontal well are the only surface owners insofar as the well permit is concerned; providing that if another surface owner should become known, his or her name shall be added as a surface owner on the permit; providing that if proceeds from other mineral tracts in a unit or pool of a horizontal well are not claimed by an unknown, missing, or abandoned owner within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund; providing that certain provisions take effect beginning when funds have been unclaimed for seven years after the special commissioner's lease regardless of when the lease was signed; and authorizing rulemaking.

Referred to the Committee on the Judiciary.

**By Senators Blair, Sypolt, and Cline:**

**Senate Bill 385**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e; and to amend and reenact §19-12A-6a of said code, all relating to establishing and funding a special revenue fund to be known as the Department of Agriculture Capital Improvements Fund; creating the fund; providing for administration by Department of Agriculture; identifying sources of moneys for said fund; identifying expenditures that may be made from said fund; providing for funds to remain at end of each fiscal year; eliminating certain deposits in the General Revenue Account; permitting deposits into certain funds; and making technical corrections.

Referred to the Committee on Finance.



Senators Stollings, Maroney, and Swope offered the following resolution:

**Senate Concurrent Resolution 12**—Requesting the Division of Highways name bridge number 50-37-22.70 (50A076), 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”.

Whereas, Lee Roy Young was born in 1933, in Genoa, Wayne County, West Virginia; and

Whereas, CPL Lee Roy Young joined the United States Army and served with the 8th Cavalry Regiment, 1st Cavalry Division, in the Chorwon area of the Korean War; and

Whereas, CPL Lee Roy Young was seriously wounded while fighting the enemy in South Korea on May 26, 1951. He returned to duty on May 29, 1951; and

Whereas, CPL Lee Roy Young was killed in action while fighting the enemy in North Korea on October 17, 1951. He is buried in the Young Family Cemetery in Genoa, Wayne County, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Lee Roy Young and his sacrifice for 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 50-37-22.70 (50A076), 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”; 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 CPL Lee Roy Young 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, Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Palumbo, Plymale, Prezioso, Woelfel, Stollings, Maroney, Swope, and Hardesty offered the following resolution:

**Senate Concurrent Resolution 13**—Requesting the Division of Highways 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”.

Whereas, Stephen Edward Drummond was born January 15, 1931, in Spelter, West Virginia, the son of General Shafter Drummond and Ruby Freeman Drummond; and

Whereas, Stephen E. Drummond graduated from Victory High School in Clarksburg, West Virginia. He married Natalie Dodd, his childhood sweetheart, and had two children, daughter Ricki and son Jeff; and

Whereas, SGT Stephen E. Drummond was drafted after graduating high school into the U. S. Marine Corps. After basic training, he saw intense combat in Korea. One day before his tour of duty was to end in Korea, his leg was severely wounded by shrapnel at the Battle of Vegas during an intense Chinese offensive; and

Whereas, SGT Stephen E. Drummond and other United Nations soldiers were captured and held as prisoners of war for four months; and

Whereas, SGT Stephen E. Drummond was released as a prisoner of war with the signing of the armistice on July 27, 1953; and

Whereas, SGT Stephen E. Drummond was awarded the Purple Heart Medal, a United Nations Service Medal, National Defense Service Medal, and the Korean Ambassador for Peace Medal; and

Whereas, After returning home to Spelter, SGT Stephen E. Drummond earned a bachelor's degree from Fairmont State College and a master's degree from Miami University of Ohio. He then began a career of more than 20 years as a mentor, coach, teacher, principal, administrator, and superintendent in various school systems; and

Whereas, Following retirement, SGT Stephen E. Drummond enjoyed traveling, visiting family members, and creating and selling his invention, Tara-Lite, for which he held a design patent; and

Whereas, SGT Steven E. Drummond died November 23, 2013; and

Whereas, It is fitting that an enduring memorial be established to commemorate SGT Steven E. Drummond 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 17-24-7.22 (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"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signed identifying the bridge as the "U. S. Marine SGT Stephen E. Drummond 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 Smith, Sypolt, Stollings, Maroney, and Swope offered the following resolution:

**Senate Concurrent Resolution 14**—Requesting the Division of Highways name bridge number 39-68/8-0.01 (39A234), locally known as Kings Trees Bridge, carrying County Route 68/8 over Interstate 68 in Preston County, the “William ‘Bill’ Thurman King Memorial Bridge”.

Whereas, Mr. King was born on June 24, 1925, in Bruceton Mills, Preston County, West Virginia; and

Whereas, Mr. King was a Technician Fifth Grade, Battery A of the 364th Field Artillery in the United States Army, in the 1940s, honorably discharged in 1946; and

Whereas, Mr. King was honored in his military service with the European-African-Middle Eastern Theater Ribbon; the Good Conduct Medal; the World War II Victory Ribbon; and the Army Occupation Medal (Germany); and

Whereas, From the late 1940s until the 1980s, Mr. King was a bus operator for the Board of Education; and

Whereas, Naming this bridge is an appropriate recognition of Mr. King’s contributions to his country and to the State of West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 39-68/8-0.01 (39A234), locally known as Kings Trees Bridge, carrying County Route 68/8 over Interstate 68 in Preston County, the “William ‘Bill’ Thurman King 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 “William ‘Bill’ Thurman King 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, Lindsay, Stollings, Takubo, Sypolt, Maroney, Swope, Baldwin, Prezioso, and Cline offered the following resolution:

**Senate Resolution 11**—Designating January 21, 2019, as Down Syndrome Awareness Day.

Whereas, There are 1 in 700 babies born with Down syndrome each year; and

Whereas, Individuals with Down syndrome, like all others, have the right to live, work, and fully participate in their communities in order to attain their goals and dreams; and

Whereas, Individuals with Down syndrome have the right to a free and appropriate public education alongside their peers without disabilities so they can learn and develop to their fullest potential; and

Whereas, Individuals with Down syndrome have the right to an equal opportunity to live full, productive lives as valued community members in the neighborhoods of their choice; and

Whereas, Individuals with Down syndrome have the right to receive the support they need to exercise self-determination, achieve independence, and become productive employees; and

Whereas, The Down Syndrome Network of West Virginia has become a statewide organization to enhance the lives of individuals with Down syndrome and to increase awareness and acceptance of individuals with Down syndrome; and

Whereas, The purpose of Down Syndrome Awareness Day is to increase the awareness and understanding of our legislators,

administrators, policymakers, and the public about the issues that are important to individuals with Down syndrome; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 21, 2019, as Down Syndrome Awareness Day; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Down Syndrome Awareness Day.

At the request of Senator Jeffries, 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 Senate Resolution 11, and on this question, Senator Jeffries demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Clements, Ihlenfeld, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 11) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Jeffries and Boso regarding the adoption of Senate Resolution 11 were ordered printed in the Appendix to the Journal.

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

The Senate reconvened at 11:28 a.m. and, at the request of Senator Plymale, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Tarr, Stollings, Sypolt, and Swope offered the following resolution:

**Senate Resolution 12**—Congratulating the Ripley High School girls' track team for winning the 2018 Class AAA State Championship.

Whereas, The Ripley High School girls' track team had a remarkable year which culminated in them winning the 2018 Class AAA State Championship; and

Whereas, Ripley High School is the smallest of the 29 AAA high schools in West Virginia; and

Whereas, The Ripley High School girls' track team is led by coaches, Krystle Cunningham and Keri Starcher, and consists of team members: Allison Fields, Cassidy Miller, Olivia Miller, Grace Bumpus, Tori Starcher, Allison Knox, Parker Anderson, Olivia Gandee, Addison Wilkinson, and Aurora Huffman; and

Whereas, Allison Fields placed 3rd in the 100M and 200M, Cassidy Miller placed 4th in the 300M hurdles, and Olivia Miller placed 1st in high jump and 2nd in pole vault. Grace Bumpus, Cassidy Miller, Allison Fields, and Tori Starcher placed 1st as a team in the 4X400M relay. Tori Starcher placed 1st in the 800M, 1st in the 1600M, and 1st in the 3200M, while setting a new state record of 4:49.14 in the 1600M. Tori Starcher was the meet point leader with 32.5 points and was named the Gatorade Athlete of the Year in West Virginia; and

Whereas, The Ripley High School girls' track team displayed its strong will and determination for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2018 Ripley High School girls' track team will be remembered as one of the best track teams ever assembled in West Virginia high school history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Ripley High School girls' track team for winning the 2018 Class AAA State Championship; and, be it

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

Which, under the rules, lies over one day.

Senators Unger, Stollings, Sypolt, and Prezioso offered the following resolution:

**Senate Resolution 13**—Recognizing Leadership Berkeley for its service, dedication, and commitment to Berkeley County.

Whereas, The objective of Leadership Berkeley is to promote knowledge and awareness of the problems, opportunities, and issues facing Berkeley County; and

Whereas, Leadership Berkeley is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants in order to encourage local participation in the growth of Berkeley County; and

Whereas, The membership of Leadership Berkeley includes individuals from nearly every facet of Berkeley County's business, professional, religious, governmental, educational, civic, the arts, and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2019 membership of Leadership Berkeley consists of: Ashley B. Albright, Trinity United Methodist Church; Kay A. Barkwill, Horses and Hearts; Peter J. Christensen, Region



7 Workforce Development Board; William R. Clark, Eastern Panhandle Regional Planning and Development Council (Region 9); Christopher C. Cox, Kay Casto & Chaney PLLC; Samantha A. Cronk, M-BC Convention and Visitors Bureau; Michele A. Dick, United Bank; Matthew T. Duggan, CNB Bank, Inc.; Steven J. Folmer, Berkeley Medical Center; David D. Grimes, Argos - US; Andrew D. Haines, Quad/Graphics; Kristen N. Hoffman, Blue Ridge Community and Technical College; Danielle L. Johnson, Aikens Group; Ana A. Kolb, WV Radio Corporation; Lindsay N. Loudin, Augmentation, Inc.; SuAnna M. McCulley, Bank of Charles Town; Apryl R. McDonough, Blue Ridge Community and Technical College; Sarah A. McKinney, City National Bank; Jacob B. Michael, Argos - US; Andrew W. Potts, CNB Bank, Inc.; Tara M. Price, Berkeley County Development Authority; Claire K. Seal, MVB Bank, Inc.; Brian K. Shade, Berkeley County Public Service Water District; Aneesh Sompalli, Valley Health; Laura L. Sutton, Bowles Rice LLP; Daniel B. Sweeney, Decker & Company PLLC; and Tina Combs, Martinsburg-Berkeley County Chamber of Commerce and Leadership Berkeley Program Coordinator; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Berkeley for its service, dedication, and commitment to Berkeley County; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Leadership Berkeley.

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 Takubo, at 11:31 a.m., the Senate recessed to present Senate Resolution 13.

The Senate reconvened at 11:34 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 17**, Relating to probation eligibility.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Clements, Ihlenfeld, and Woelfel—3.

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. 17) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Clements, Ihlenfeld, and Woelfel—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. 17) 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 61**, Adding certain crimes for which prosecutor may apply for wiretap.

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 61 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Clements, Ihlenfeld, and Woelfel—3.

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. 61) passed.

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 Senate Bill 61**—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including the crimes of treason, first degree robbery, extortion or attempted extortion, and participation in an organized criminal enterprise to the list of crimes for which a prosecutor may apply for a court 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. Senate Bill 119**, Specifying documents not subject to discovery in certain proceedings.

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: Azinger, Blair, Boley, Boso, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Facemire, Jeffries, Lindsay, and Romano—6.

Absent: Clements, Ihlenfeld, 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. 119) 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.

**Com. Sub. for Senate Bill 3**, Establishing WV Small Wireless Facilities Deployment Act.

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

On motions of Senators Palumbo, Takubo, Lindsay, and Jeffries, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section one, line eighty-five, after the word “repairs.” by inserting the following: Regardless of whether the authority or the wireless provider ultimately makes the repairs, the authority may assess an additional fine of \$100 per day that the wireless provider failed to make the required repairs after the wireless provider received written notice until the repairs were completed.;

On page twelve, section two, line seventy, by striking out the words “deficiencies cited in the denial” and inserting in lieu thereof the words “changes made in the resubmission”;

On page thirteen, section two, lines ninety through ninety-eight, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) An authority may require a permit to work within a right-of-way for any activities under this chapter, if applicable, and may prohibit access when a road is closed or its access is limited to the public. Other than this permit and the other actions explicitly authorized by this chapter, an authority may not require an additional application, approval, or permit, or require any fees or other charges from a communications service provider authorized to occupy the right-of-way, for: (1) Routine maintenance; (2) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller; or (3) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on existing cables that are strung between existing utility poles in compliance with applicable safety codes and the pole owner’s construction standards and engineering practices.;

On page thirteen, section three, line two, after the word “to” by inserting the words “the provisions of this chapter and”;

And,

On page fifteen, section four, line twelve, after the word “law,” by inserting the words “this chapter, and municipal taxation ordinances authorizing collection of business and occupation taxes since at least November 1, 1998,”.

The bill (Com. Sub. for S. B. 3), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 62**, Requiring participation in drug court program before discharge of certain first-time drug offenses.

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

**Com. Sub. for Senate Bill 152**, Relating generally to criminal offense expungement.

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

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

On page two, section twenty-six, line twenty-five, by striking out the words “a preliminary order of”;

And,

On page two, section twenty-six, after line thirty-three, by adding a new subdivision, designated subdivision (4), to read as follows:

(4) Notwithstanding the provisions of subdivisions (1), (2), and (3) of this subsection, a person seeking expungement may directly petition for a final order of expungement if eight or more years have elapsed since the later occurring completion of incarceration or supervision.

On motion of Senator Trump, the following amendment to the bill (Com. Sub. for S. B. 152) was next reported by the Clerk and adopted:

On page three, lines thirty-seven through fifty-four, by striking out all of subdivisions (1) through (10) and inserting in lieu thereof the following:

(1) Any felony offense of violence against the person as defined in subdivision (2), subsection (q) of this section or any misdemeanor offense involving the intentional infliction of physical injury to a minor or law-enforcement officer;

(2) Any felony offense when the victim of the crime was a minor as defined in subdivision (3), subsection (q) of this section;

(3) Any misdemeanor offense which violates the provisions of §61-8B-1 *et seq.* of this code, where the victim was mentally or physically incapacitated or where the petitioner was 18 years of age or older and the victim was 12 years of age or younger at the time the offense occurred;

(4) Any offense where the petitioner used or exhibited a deadly weapon or dangerous instrument;

(5) Any violation of §61-2-28 of this code, or any offense which violates §61-2-9(b) or §61-2-9(c) of this code where the victim was a spouse, a person with whom the person seeking expungement had a child in common, or with whom the person seeking expungement ever cohabited prior to the offense or a violation of §61-2-28(c) of this code;

(6) Any violation of §61-2-29 of this code;

(7) Any offense of driving under the influence of alcohol or a controlled substance;

(8) Any offense which violates §17B-4-3 of this code;

(9) Any offense which violates §61-8-12 or §61-8-19 of this code;

(10) Any offense which violates §17E-1-13(g) of this code; and

(11) Any offense of conspiracy to commit a felony set forth in subdivisions (1) through (8), inclusive, of this subsection.

The bill (Com. Sub. for S. B. 152), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 240**, Repealing certain legislative rules no longer authorized or are obsolete.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Com. Sub. for Senate Bill 1**, Increasing access to career education and workforce training.

**Com. Sub. for Senate Bill 18**, Relating to crimes committed on State Capitol Complex.

**Com. Sub. for Senate Bill 255**, Relating to Emergency Medical Services Advisory Committee.

And,

**Senate Bill 354**, Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Rucker.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Clements, Ihlenfeld, and Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:30 p.m., the Senate adjourned until tomorrow, Tuesday, January 22, 2019, at 11 a.m.

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## TUESDAY, JANUARY 22, 2019

The Senate met at 11:02 a.m.

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

Prayer was offered by the Reverend Michael Estep, Senior Pastor, Suncrest United Methodist Church, Morgantown, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rollan A. Roberts, a senator from the ninth district.

Pending the reading of the Journal of Monday, January 21, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2190**—A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to the authorization to release a defendant or a person arrested upon his or her own recognizance; requiring a court or magistrate to release a person charged with certain misdemeanor offenses on his or her own recognizance except for good cause shown and permitting a prosecuting attorney to bring a motion to set cash or surety bond.

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 2311**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1-9, relating to exempting short-term license holders to submit information to the Tax Commissioner once the term of the permit has expired; and requiring rulemaking.

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

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

**Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

**Com. Sub. for Senate Bill 258** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §31B-3-303 of the Code of West Virginia, 1931, as amended, relating to establishing that the intent and policy of the Legislature is that common law corporate “veil piercing” claims may not be used to impose personal liability on a member or manager of a limited liability company; and nullifying the Supreme Court of Appeals of West Virginia’s decision in *Joseph Kubican v. The Tavern, LLC*. 232 W. Va. 268, 752 S.E.2d 299 (2013).

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 264**, Requiring courts to order restitution to crime victims.

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

**Com. Sub. for Senate Bill 264** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11A-4 of the Code of West Virginia, 1931, as amended, relating to requiring courts to order restitution to victims of crime where it is economically practicable; providing for consideration of economic hardship within the order; and providing for the definition of any person compensating a victim for loss to include the West Virginia Crime Victims Compensation Fund for purposes of receiving restitution for funds paid to a crime victim.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 264), under the original double committee reference, was then referred to the Committee on Finance.

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 Bill 317**, Authorizing three or more adjacent counties form multicounty trail network authority.

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

**Com. Sub. for Senate Bill 317** (originating in the Committee on Natural Resources)—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 generally to authorizing three or more adjacent counties to form a multicounty trail network authority; providing a statement of legislative purpose and findings; defining terms; providing that an authority is a public corporation and joint development entity; providing that a county that is adjacent to an authority may join the authority as a participating county upon approval of the board of the authority and the county commission of the county wishing to participate; providing that two existing authorities may merge upon approval of the boards of both authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; prescribing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; 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; and providing for severability.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill (Com. Sub. for S. B. 317), under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 386**—A Bill to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-16-27; and to amend said code by adding thereto a new section, designated §11B-2-15a, all relating generally to funding of Public Employees Health Insurance Program; requiring the finance board to maintain a reserve fund at actuarially recommended amounts of at least 10 percent of plan costs; removing requirement to transfer moneys resulting from plan savings into reserve fund; removing the cap in reserve fund of 15 percent before a transfer to West Virginia Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fee and providing for its assessment and collection in current fiscal year of the state; providing for the Legislature to authorize assessment of PEIA Rainy Day Fee in subsequent fiscal years; establishing PEIA Rainy Day Fund as special, nonexpiring,

interest-bearing revenue account in the State Treasury to be funded by PEIA Rainy Day Fee assessments; authorizing the Secretary of Revenue to assess and collect fee and give special revenue agencies additional time to pay fee when undue hardship exists; providing for the administration of the fund, including investment of funds, transfer of funds, and purposes for which the fund can be used; and authorizing the promulgation of emergency and legislative rules.

Referred to the Committee on Finance.

**By Senator Weld:**

**Senate Bill 387**—A Bill to amend and reenact §5-1-10 of the Code of West Virginia, 1931, as amended, relating to the authorization of the Governor to seek the return of fugitives when found in another state or the District of Columbia; providing for return of persons who have been improperly released from confinement; and updating terms, titles, and cross-references.

Referred to the Committee on the Judiciary.

**By Senators Jeffries, Hamilton, Tarr, and Beach:**

**Senate Bill 388**—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Beach, Cline, and Hamilton:**

**Senate Bill 389**—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that said developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a

person 18 years of age or older; and providing for criminal penalties.

Referred to the Committee on Natural Resources.

**By Senators Maynard, Tarr, Plymale, Cline, and Sypolt:**

**Senate Bill 390**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31G-5-1 and §31G-5-2, all relating to determining the feasibility of electric utilities constructing and operating middle-mile broadband Internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in determining the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband Internet projects within a certain period of time; and requiring certain reports be submitted to certain officials and committees.

Referred to the Committee on Economic Development.

**By Senators Takubo, Baldwin, Beach, Clements, Hamilton, Lindsay, Palumbo, Weld, and Cline:**

**Senate Bill 391**—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9, and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6, and §5-11A-7 of said code, all relating to unlawful discriminatory practices in categories covered by the Human Rights Act and the Fair Housing Act; prohibiting discrimination based upon age and sexual orientation, or gender identity; and defining “sexual orientation” and “gender identity”.

Referred to the Committee on the Judiciary.

**By Senators Weld and Clements:**

**Senate Bill 392**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-3-14a, relating to the payment of invoices received by the

Division of Corrections and Rehabilitation for contract work not otherwise specifically provided for in this article; and requiring audit of the claim by the division.

Referred to the Committee on Government Organization.

**By Senators Sypolt, Azinger, Baldwin, Blair, Boso, Clements, Hamilton, Jeffries, Maynard, Hardesty, Rucker, Smith, Takubo, Tarr, Plymale, Beach, Cline, Roberts, Swope, and Trump:**

**Senate Bill 393**—A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §19-19-7 and §19-19-8, all relating to the right to farm; providing for an amended definition of “agriculture”; providing for protections to agriculture operations from nuisance litigation if the facility has been in operation for more than one year; and providing a severability clause.

Referred to the Committee on the Judiciary.

Senators Tarr, Cline, and Sypolt offered the following resolution:

**Senate Concurrent Resolution 15**—Requesting the Joint Committee on Government and Finance study the feasibility of requiring all state agencies that submit budgets for their annual operations, and collect fees and fines that support these budgets, to deposit these funds to the General Revenue Fund.

Whereas, There are numerous state agencies whose budgets are either partially or entirely funded through fees and fines that are deposited into special funds. These agencies also benefit from legislative appropriations from the budget every fiscal year; and

Whereas, It may be a more practical fiscal approach to require that these fees and fines be deposited into the General Revenue Fund of the state from which these agencies may seek legislative approval for funds needed in addition to their original budget requests; therefore, be it



*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of requiring all state agencies that submit budgets for their annual operations, and collect fees and fines that support these budgets, to deposit these funds to the General Revenue Fund; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance is hereby requested to study and analyze the number of special funds created for the deposit of fees and fines, the annual dollar amount of these deposits, and the feasibility of having all of these special funds for fees and fines be deposited into the General Revenue Fund; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 Beach, Prezioso, Plymale, Baldwin, Stollings, Unger, Smith, Jeffries, Sypolt, and Swope offered the following resolution:

**Senate Resolution 14**—Celebrating the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia.

Whereas, Monongalia County is known as the “mother county”, in reference to the many other counties created from its original territory. Monongalia County was founded in 1776 from the West Augusta County of Virginia, following small settlements along the Monongahela River and its tributaries to the Ohio River,

and settled by a small group of people along the banks of Decker's Creek; and

Whereas, Monongalia County, being the third-largest county by population (104,622) of the 55 counties of West Virginia, has had an annual growth rate exceeding 1.6 percent for more than a decade; and

Whereas, Monongalia County was recognized by the West Virginia Association of Counties with the first Patti Hamilton Imagine Award for the efforts of community leaders from the public and private sectors to cooperate and collaborate on innovative ways to solve the region's problems; and

Whereas, Monongalia County is home to West Virginia University, a public land-grant institution, founded in 1867, and recognized as a top research university by the Carnegie Foundation for the Advancement of Teaching. West Virginia University welcomes and shapes the minds of students from across the State of West Virginia, every state in the United States, and approximately 100 other nations; and

Whereas, Monongalia County has an award-winning baseball park, which is the home of the West Virginia University baseball team and the home of the West Virginia Black Bears minor league team, providing all our citizens the ability to follow their baseball heroes throughout their Pittsburgh Pirates career; and

Whereas, Monongalia County offers to its citizens and visitors from around the world: The best in medical care; tourism experiences from Mountainfest to the University Arts Series; a beautiful view atop Cooper's Rock to a peaceful stroll on the Caperton Trail; top-rated educational experiences at all levels; a thriving and innovative business community; a nationally acclaimed economic model; and a place that offers big-city amenities with the neighborly feel of small-town life; and

Whereas, Monongalia County has been recognized in recent years in the following ways: Best Performing Small Metros (Milken Institute); Best Small Metros for Business and Careers

(Forbes); Best Quality of Life and Knowledge Worker Metros (Expansion Manage); Smart Places to Live (Kiplinger's); Boom Town (Inc.); Morgantown—Top College Destination (American Institute for Economic Research); Designated Retirement Community (CLIC); Best Places to Retire for Under \$100 a Day (AARP); Most Secure Small Cities (Farmers Insurance); Adventure Town (National Geographic Adventure Magazine); Best Small Town to Live (Men's Journal); and Best Sports Cities (Sporting News); and

Whereas, In Monongalia County, from Blacksville to Star City, from Westover to Granville, in the heart of Morgantown and everywhere in between, every day is a great day to be a Mountaineer; therefore, be it

*Resolved by the Senate:*

That the Senate hereby celebrates the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia; and, be it

*Further Resolved,* That the Senate acknowledges the vibrancy and contributions made to our state and nation by the people, past and present, of Monongalia County; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Monongalia County.

At the request of Senator Beach, 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 Takubo, and by unanimous consent, the remarks by Senators Beach, Sypolt, Clements, Smith, Prezioso, and Maroney regarding the adoption of Senate Resolution 14 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:18 a.m., the Senate recessed to present Senate Resolution 14.

The Senate reconvened at 11:23 a.m. and, at the request of Senator Rucker, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Sypolt, Smith, Plymale, Baldwin, Stollings, Unger, Beach, Jeffries, and Swope offered the following resolution:

**Senate Resolution 15**—Designating January 22, 2019, as Preston County Day at the Legislature.

Whereas, The Cheat River is a mighty river borne from a small stream on Cheat Mountain and comprised of five notable forks, which join and flow north through Preston County to its confluence with the Monongahela River; and

Whereas, The Cheat River watershed is one of the most ecologically intact river systems in the eastern United States; and

Whereas, The Cheat River was West Virginia's first commercially rafted river; and

Whereas, The Cheat River was named one of America's Most Endangered Rivers due to toxic acid mine drainage pollution that left the lower section of the river completely void of any life; and

Whereas, In 1994, Friends of the Cheat formed in Preston County to address the long-standing issues of the polluted Cheat River; and

Whereas, Friends of the Cheat established its mission to restore, preserve, and promote the outstanding natural qualities of the Cheat River watershed; and

Whereas, The Cheat River has been reborn, maintaining good water chemistry and a healthy fishery from headwaters to mouth; and

Whereas, The community is working together to boost economic opportunities in Preston County through new and

improved outdoor recreation, emphasis on water quality, and access to public lands; and

Whereas, Friends of the Cheat maintain five public accesses to the Cheat River. They also supported the creation of the Cheat River Water Trail, which maintains nine more public accesses; and

Whereas, Friends of the Cheat host multiple outreach events yearly, the largest being the Cheat River Festival, with over 3,000 attendees travelling from all over to support and celebrate successful restoration and recreation on the Cheat River; and

Whereas, Friends of the Cheat was named 2018 Watershed of the Year by the West Virginia Watershed Network; and

Whereas, Friends of the Cheat is a 2018 recipient of an Abandoned Mine Land pilot grant for the Re-Create Project, which will construct the 8.5-mile Cheat River Rail-Trail, an acid mine drainage learning park, and support “trail town” modeling in Kingwood, Tunnelton, Albright, and Rowlesburg; and

Whereas, Preston County is proud to help lead the state in recognizing the value of outdoor recreation, public lands, and water quality control, and their importance in the future economic health of West Virginia; and

Whereas, The citizens of Preston County travel to the state capitol on an annual basis during the legislative session to share their accomplishments, aspirations, and concerns with lawmakers; and

Whereas, It is fitting to recognize Preston County for its contributions to the economic success and future development in the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 22, 2019, as Preston County Day at the Legislature; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Preston County.

At the request of Senator Sypolt, 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 Takubo, and by unanimous consent, the remarks by Senators Sypolt, Beach, and Smith regarding the adoption of Senate Resolution 15 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 12**, US Army CPL Lee Roy Young 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 13**, US Marine SGT Stephen E. Drummond 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 14**, William “Bill” Thurman King 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 Resolution 12**, Congratulating Ripley High School girls’ track team for winning 2018 Class AAA state championship.

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

At the request of Senator Tarr, 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 Takubo, and by unanimous consent, the remarks by Senator Tarr regarding the adoption of Senate Resolution 12 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 3**, Establishing WV Small Wireless Facilities Deployment 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3) 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 62**, Requiring participation in drug court program before discharge of certain first-time drug offenses.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 62) 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 152**, Relating generally to criminal offense expungement.

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 152 pass?”

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

The nays were: Tarr—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. 152) 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 240**, Repealing certain legislative rules no longer authorized or are obsolete.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 240) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 240) takes effect from passage.

*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.

**Com. Sub. for Com. Sub. for Senate Bill 1,** Increasing access to career education and workforce training.

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

On motions of Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, section six, line sixteen, after the word “Schools,” by inserting the words “Chancellor of the Higher Education Policy Commission,”;

On page seven, section eleven, by striking out all of section eleven and inserting in lieu thereof a new section, designated section eleven, to read as follows:

**§18-2E-11. Advanced Career Education.**

(a) The Legislature hereby makes the following findings:

(1) Preparing West Virginia students to achieve post-secondary career education and to excel in the workforce is a responsibility shared among all state education agencies and institutions. The state's education agencies and institutions can fulfill this responsibility by establishing partnerships that enable students to attain advanced career education and valuable workforce skills in a more efficient and advantageous manner;

(2) The formation of partnerships between public secondary schools, four-year colleges and universities that offer occupational associate degrees, and community and technical colleges which establish advanced career education programs would ensure that a full range of community and technical college programs and services are provided in all areas of the state;

(3) Programs which create clear and efficient pathways that begin during secondary education and lead to obtaining advanced certifications and occupational associate degrees will increase the number of students that ultimately obtain a post-secondary credential or degree; and

(4) West Virginia's economic prosperity is directly tied to the level and quality of its workforce career education. Providing the students of this state with increased access to career education will not only improve the general well-being of its citizens, but greatly enhance the economic prosperity of the state.

(b) The purpose of this section and the Advanced Career Education (ACE) programs authorized herein is to connect secondary schools with both four-year colleges and universities that offer associate degrees and community and technical colleges to accomplish the following:

(1) Prepare secondary students for success in post-secondary education and the workforce; and

(2) Provide more opportunities for secondary students to earn post-secondary college credits, certifications, and occupational associate degrees.

(c) To effectuate the purposes set forth in §18-2E-11(b) of this code, four-year colleges and universities that offer occupational associate degrees, community and technical colleges and the career technical education centers, county boards of education, shall establish partnerships that provide for ACE programs which feature defined pathways that begin when a student is in secondary education and that ultimately lead to an occupational associate degrees awarded by four-year colleges and universities that offer associate degrees or community and technical colleges and advanced certifications. ACE programs shall be equally available to public, nonpublic, and homeschool students.

(d) ACE programs shall include pathways that consist of a curriculum of courses leading to advanced certifications or an occupational associate degree that have been deemed to satisfy a workforce need as determined by the Department of Commerce. The Department of Commerce shall, on occasion, but at least annually, provide written notification to the State Board of Education, the Higher Education Policy Commission, and the West Virginia Council for Community and Technical College Education a determination of areas of workforce need within the state.

(e) The State Superintendent of Schools, the Chancellor of the Higher Education Policy Commission, or their designees, and the Chancellor of the Council for Community and Technical College Education, or their designees, shall facilitate the ACE programs. At a minimum, an ACE program shall satisfy the following objectives:

(1) Provide additional opportunities to students in this state to attain advanced certifications and occupational college credentials through ACE pathways;

(2) Increase the number of students in this state that attain advanced certifications and occupational college credentials through ACE pathways;

(3) Allow students in this state to attain advanced certifications and occupational college credentials through ACE pathways at little or no cost;

(4) Ensure that ACE pathways provide a clear roadmap to the courses and requirements necessary to attain advanced certifications and occupational college credentials; and

(5) Ensure that course requirements within ACE pathways are not duplicated.

(f) The board, commission, and council shall jointly promulgate guidelines for the administration of ACE programs and pathways, which must be affirmatively adopted by the board, commission, and the council. At a minimum, such guidelines shall provide for the following:

(1) That ACE program partnerships established between four-year colleges and universities that offer associate degrees, community and technical colleges and career technical education centers and county boards of education shall be reduced to written partnership agreements;

(2) The information required to be contained within partnership agreements;

(3) That ACE programs and pathways must meet the requirements of the accrediting entity for the four-year college or university that offers occupational associate degrees or the community and technical college awarding the applied associate degrees or advanced certificates;

(4) That partnership agreements shall be approved by the State Superintendent of Schools, the Chancellor of the Higher Education Policy Commission, or their designees, and the Chancellor for the Council for Community and Technical College Education, as applicable; and

(5) Any other provisions necessary to effectuate the purposes of this section.

(g) The Division of Vocational Education and the council shall maintain and annually report to the Governor and the Legislative Oversight Commission on Education Accountability the following information about ACE programs:

(1) The identity and number of partnership agreements;

(2) The ACE programs and pathways that are being utilized by career technical education centers, county boards of education, four-year colleges or universities that offer occupational associate degrees, and community and technical colleges; and

(3) The nature and number of degrees and certifications awarded to students participating in ACE programs by each four-year college or university that offers occupational associate degrees, and community and technical college and career technical education center.;

On page fifteen, section three, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

### **§18C-9-3. Definitions.**

As used in this article:

“Applied Associate Degree” means an associate of applied science degree in which not more than 21 credit hours of the required curriculum consists of general education core courses.

“Commission” means the Higher Education Policy Commission;

“Council” means the West Virginia Council for Community and Technical College Education;

“Eligible institution” means a four-year college or university that offers associate degrees under the authority of the Higher Education Policy Commission and public community and technical college institution under the authority of the West Virginia Council for Community and Technical College Education satisfying the

requirements of participating in Advanced Career Education (ACE) program partnerships in accordance with §18-2E-11 of this code;

“Eligible post-secondary program” means a curriculum of courses leading to a certificate or associate degree at an eligible institution which satisfies a course of study that has been deemed to satisfy a workforce need as determined by the Department of Commerce in accordance with §18-2E-11(d) of this code. “Eligible post-secondary program” does not include any certificate or associate degree created by an eligible institution after the effective date of this section;

“Qualifying Tuition” means such tuition charges as are charged to a student enrolled in an eligible post-secondary program at an eligible institution and are charged due to enrollment in courses which are required for the completion of the eligible post-secondary program, consistent with the published academic curriculum of the eligible institution. Under no circumstances shall enrollment by an otherwise eligible student in more than a total of 21 credit hours of general education core or other courses which are designated for mandatory transfer of credits among state institutions of higher education qualify for qualifying tuition; and

“Tuition” means the semester or term charges imposed by an eligible institution and, additionally, all mandatory fees required as a condition of enrollment by all students.;

On page fifteen, section four, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

**§18C-9-4. WV Invests Grant Program.**

(a) There is hereby created a grant program known as the WV Invests Grant Program, which shall be administered by the vice chancellor for administration and the commission in accordance with this article.

(b) The council or commission shall award WV Invests Grants pursuant to the following terms and conditions:

(1) A WV Invests Grant may only be awarded to applicants satisfying the requirements provided in §18C-9-5 of this code;

(2) The maximum amount of a WV Invests Grant shall be the cost of tuition charged to all students for coursework leading to completion of the chosen applied associate degree or certificate, less all other state and federal scholarships and grants for which the student is eligible. All other state and federal scholarships and grants for which the grant recipient is eligible shall be deducted from the amount of the WV Invests Grant for each individual student;

(3) Grant payments shall be made directly to the eligible institutions;

(4) If a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;

(5) A WV Invests Grant may be used at any eligible institution to seek an applied associate degree or certificate in an eligible post-secondary program. An institution is not required to accept a grant recipient for enrollment and may enforce its own admission requirements, standards, and policies; and

(6) If a WV Invests Grant recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the council or commission, as applicable, in accordance with the council's or commission's policy for issuing refunds. The council or the commission shall transfer such funds to the WV Invests Fund for allocation and expenditure.

(c) On or before January 1 of each year, the council and the commission shall provide to the Legislature and the Governor a report on the WV Invests Grant Program, which shall include, but not be limited to, research and data concerning student success and grant retention.

(d) The council and the commission shall propose legislative rules for legislative approval pursuant to §29A-3A-1 *et seq.* of this



code to implement the provisions of this article, which shall provide for:

(1) Application requirements and deadlines including provisions which enforce the limitations upon eligibility established in this article;

(2) Appeal procedures for the denial or revocation of the grant; and

(3) Any other provisions necessary to effectuate the purposes of this article.

(e) The Legislature hereby declares that an emergency situation exists and, therefore, the council and the commission may establish, by emergency rule, under the procedures of §29A-3A-1 et seq. of this code, a rule to implement the provisions of this article.

(f) Beginning with the 2021 fiscal year, and for every fiscal year thereafter, any appropriation by the Legislature to support and or alleviate the cost to citizens in this state to obtain advanced certifications and applied associate degrees shall only be distributed to those community and technical colleges or four-year colleges or universities that offer occupational associate degrees that form one or more partnerships to establish ACE programs and pathways. Once distributed, such funds may be used to support any program or pathway leading to the award of an applied associate degree or certification.;

And,

On page twenty, section six, line twelve, after the word “administration” by inserting the words “or commission”.

Following extended discussion,

(Senator Blair in the Chair.)

Following discussion,

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

The question being on the adoption of the amendments offered by Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger to the bill (Com. Sub. for Com. Sub. for S. B. 1), and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, 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 the amendments offered by Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger to the bill rejected.

On motions of Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger, the following amendment to the bill (Com. Sub. for Com. Sub. for S. B. 1) was next reported by the Clerk:

On page thirteen, after line eighty-seven, by inserting a new section, designated section sixteen, to read as follows:

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

#### **§18B-3C-16. Encouragement of collaborative agreements between community and technical colleges and federally registered apprenticeship programs.**

(a) The Legislature finds that apprenticeship programs provide a valuable educational opportunity that can be enhanced by

community and technical colleges and four-year colleges and universities that offers associate degrees. Accordingly, the Legislature hereby encourages, but is not requiring, community and technical colleges and four-year colleges and universities that offers associate degrees to enter into collaborative agreements with federally registered apprenticeship programs that are registered with the United States Department of Labor.

(b) On or before January 1 of each year, the council shall provide to the Legislature and the Governor a report regarding the collaborative agreements between community and technical colleges and federally registered apprenticeships programs. The report should identify those community and technical colleges that have entered into a collaborative agreement with federally registered apprenticeship programs, the number of students participating in such apprenticeship programs, the number of students employed in a relevant field of study subsequent to completing an apprenticeship program in cooperation with the community and technical college, and the average compensation of the students employed in a relevant field of study subsequent to completion of the apprenticeship program in cooperation with a community and technical college.

Following extended discussion,

The question being on the adoption of the amendment offered by Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger to the bill, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger to the bill rejected.

The bill (Com. Sub. for Com. Sub. for S. B. 1) was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 18**, Relating to crimes committed on State Capitol Complex.

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

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

On pages one and two, lines seven through twenty-two, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) It is unlawful for any person to bring upon the State Capitol Complex any weapon as defined in §61-7-2 of this code: *Provided*, That a person ~~who holds a valid, current concealed weapons permit issued by a sheriff of this state or the appropriate authority of another jurisdiction~~ who may lawfully possess a firearm may keep a firearm in his or her motor vehicle upon the State Capitol Complex if the vehicle is locked and the weapon is out of normal view. It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling, column, statue, monument, structure, surface, artwork, or adornment in the State Capitol Complex. It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public access, stair, or elevator in the State Capitol Complex after being asked by a law-enforcement officer acting in his or her official capacity to desist: *Provided, however*, That, in order to preserve the constitutional right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered in a group or crowd if the persons move to the side or part to allow other persons to pass by the group or crowd to gain ingress or egress: *Provided further*, That this subsection does not apply to a law-enforcement officer acting in his or her official capacity.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 or confined in jail not more than six months, or both.

The bill (Com. Sub. for S. B. 18), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 255**, Relating to Emergency Medical Services Advisory Committee.

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

**Senate Bill 354**, Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 223**, Authorizing Department of Commerce promulgate legislative rules.

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

**Com. Sub. for Senate Bill 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Hamilton.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 359** (*Creating Youth Mental Health Protection Act*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:36 p.m., the Senate adjourned until tomorrow, Wednesday, January 23, 2019, at 11 a.m.

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## WEDNESDAY, JANUARY 23, 2019

The Senate met at 11:05 a.m.

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

Prayer was offered by Chuck Kinder, Lay Pastor, Charleston, 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 Tuesday, January 22, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2362**—A Bill to amend and reenact §3-3-5c of the Code of West Virginia, 1931, as amended, relating to procedures for voting an emergency absentee ballot by qualified voters; and providing a mechanism to allow a qualified

voter who is confined to a specific location within the county other than a hospital or other duly licensed health care facility or a nursing home and is prevented from travelling to a polling place and voting in person because of illness, injury or other medical reason, or a physical disability or immobility due to extreme advanced age.

Referred to the Committee on the Judiciary.

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

**Senate Bill 55**, Relating to driving privileges and requirements for persons under 18.

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

**Com. Sub. for Senate Bill 55** (originating in the Committee on the Judiciary)—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 the holder of a level three, full class E license from using a wireless communication device while operating motor vehicle and specifying exception; and making violation of level three license terms and conditions subject to criminal penalty provision.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 101**, Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

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

**Com. Sub. for Senate Bill 101** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.

And,

**Senate Bill 124**, Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

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

**Com. Sub. for Senate Bill 124** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to creating a felony offense for cruelty to an animal that causes bodily injury to or death of the animal; and creating a felony offense for second and subsequent convictions of cruelty to animals.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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



Your Committee on the Judiciary has had under consideration

**Senate Bill 103**, Relating generally to Public Defender Services.

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

**Com. Sub. for Senate Bill 103** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-21-6 and §29-21-13a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-21-9a, all relating generally to Public Defender Services; transferring initial authority to review, approve, modify, or refuse panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission or reconsideration of vouchers previously modified or refused; establishing procedures for handling of modified or refused vouchers; maintaining final authority over payment of vouchers with circuit courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for noncriminal legal services; providing for payment of contracts; authorizing agency to reduce or reject vouchers or requests for payment; requiring panel attorneys to maintain time-keeping records to enable the attorney to determine time expended on a daily basis; authorizing Governor by executive order to borrow funds from the Revenue Shortfall Reserve Fund to pay appointed counsel; establishing repayment requirements; requiring Secretary of Administration's clarification that borrowing is necessary; expiring authorization to borrow on January 1, 2021; setting record-keeping standards; requiring prompt processing and payment of vouchers; increasing the rates of compensation for panel attorneys; authorizing payment for in-court paralegal services with prior approval of the circuit court and subject to agency rule regarding maximum reimbursement; authorizing the executive director to promulgate emergency rules; and setting an effective date.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 103), under the original double committee reference, was then referred to the Committee on Finance.

Senator Maroney, 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

**Senate Bill 173**, DHHR rule relating to medication-assisted treatment—office-based medication-assisted treatment.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Senate Bill 178**, Lottery Commission rule relating to WV Lottery sports wagering rule.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 233**, Relating to age requirements for deputy sheriff.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

Senator Clements, 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 Bill 238**, Increasing fines for passing stopped school bus.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 241**, Permitting county court clerks scan certain documents in electronic form.

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

**Com. Sub. for Senate Bill 241** (originating in the Committee on Government Organization)—A Bill to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating to writings to be recorded under the direction of the county clerk; permitting the clerk, with authorization from the county commission, to scan and record certain documents in electronic form rather than in well-bound books, not prepare indices in separate books, and replace existing books by scanning them in approved electronic format; requiring that existing books be retained; providing exception to retention of books; and updating terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*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 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

And,

**Senate Bill 269**, Updating terms used in WV Personal Income Tax Act.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 291**, Relating generally to survivor benefits for emergency response providers.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Senator Clements, 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 Bill 333**, Exempting automobiles 25 years or older from personal property taxes.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Senator Clements, 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 4**, US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 4** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road”.

Whereas, Dennis Ray Blankenship was born January 8, 1938, in Bartley, McDowell County, West Virginia; and

Whereas, Dennis Ray Blankenship served in the United States Marine Corps during the Vietnam War and reached the rank of Lieutenant Colonel; and

Whereas, Lt. Col. Dennis Ray Blankenship was highly decorated for his conspicuous gallantry and intrepidity in action, and was awarded the Silver Star; and

Whereas, Naming a portion of road in McDowell County is an appropriate recognition of his service and sacrifice for his country, his state, his community, and McDowell County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship 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 “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship 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.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

Senator Clements, 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 9**, US Army PFC Winten L. Ways Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Takubo, Ihlenfeld, Jeffries, Maroney, Weld, Woelfel, Palumbo, Plymale, Stollings, Hamilton, Hardesty, Baldwin, and Trump:**

**Senate Bill 394**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-3a, relating to permitting the state to opt out of a federal statute that would otherwise not allow a state resident who has been convicted of a felony involving a controlled substance from receiving benefits under the Supplemental Nutrition Assistance Program provided that certain conditions are met.

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

**By Senators Tarr, Boso, Maroney, Sypolt, and Takubo:**

**Senate Bill 395**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-6, relating to authorizing the West Virginia Public Employees Insurance Agency to establish base benefits insurance plans.

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

**By Senators Tarr and Cline:**

**Senate Bill 396**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated



§30-1-22, relating to waiver of initial occupational licensing fees for certain individuals; requiring board and licensing authorities to waive certain initial occupational licensing fees for low-income individuals, military families, and young workers; defining terms; requiring individuals seeking waiver of initial occupational licensing fees to apply on a form provided by the board or licensing authority; and granting rule-making authority.

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

**By Senator Cline:**

**Senate Bill 397**—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-1-69 of said code; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; amending the definition of “autocycle”; and clarifying the autocycle exemption from helmet requirements.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Trump, Takubo, Stollings, and Prezioso:**

**Senate Bill 398**—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 generally to compensation for judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; setting forth legislative findings; limiting the per diem rate of compensation that may be paid to senior judges and justices for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior judge or justice in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such judge or justice; requiring

that administrative orders regarding extended assignment of a senior judge or justice be submitted to the State Auditor and the State Treasurer; providing that senior judges and justices may be reimbursed for actual and necessary expenses incurred in the performance of their duties; and requiring the State Treasurer to petition the West Virginia Supreme Court of Appeals for a writ of prohibition prohibiting the State Auditor from issuing warrants to authorize payment of compensation to senior judges and justices above statutory limitations.

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

**By Senators Trump, Stollings, and Beach:**

**Senate Bill 399**—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §50-1-6a of said code, all relating generally to compensation for judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; limiting the per diem rate of compensation that may be paid to senior magistrates for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior magistrate in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such senior magistrate; requiring that administrative orders regarding extended assignment of a senior magistrate be submitted to the State Auditor and the State Treasurer; and providing that senior magistrates may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

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

**By Senators Romano and Takubo:**

**Senate Bill 400**—A Bill to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry to create specialty licenses; setting forth those specialty licenses; changing the specific examination an applicant must pass before being issued a license to practice dentistry; changing the type of exam an applicant must pass before being issued a license to practice dental hygiene; and defining terms.

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

**By Senators Cline, Azinger, Boley, Boso, Hamilton, Jeffries, Maynard, Hardesty, Roberts, Smith, Swope, Sypolt, Tarr, Woelfel, Plymale, Unger, Ihlenfeld, Takubo, Stollings, Baldwin, Maroney, and Rucker:**

**Senate Bill 401**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; exempting Social Security benefits from personal income tax; and establishing an effective date.

Referred to the Committee on Finance.

**By Senators Sypolt, Beach, Stollings, Hamilton, Boso, Cline, Baldwin, Maroney, and Prezioso:**

**Senate Bill 402**—A Bill to amend and reenact §19-1A-3b of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Forestry to investigate and enforce timber theft violations on all lands.

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

**By Senators Sypolt, Roberts, and Hamilton:**

**Senate Bill 403**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §41-3-12, relating to prohibiting that any next of kin who is

criminally responsible for the death of a relative may not be involved in the decedent's burial arrangements.

Referred to the Committee on the Judiciary.

**By Senators Sypolt and Boso:**

**Senate Bill 404**—A Bill to amend and reenact §19-1B-4, §19-1B-6, §19-1B-7, §19-1B-10, and §19-1B-12a of the Code of West Virginia, 1931, as amended, all relating generally to sediment control during commercial timber harvesting operations; increasing the threshold amount before a logger must follow certain licensing requirements regarding sediment control; requiring the logger to notify the Director of the Division of Forestry at least three days before timbering begins; requiring certain training requirements prior to recertification of certified loggers; providing for appeals; increasing criminal penalties; and removing certain limitations on issuing citations and powers of arrest.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senator Sypolt:**

**Senate Bill 405**—A Bill to amend and reenact §11A-3-23, §11A-3-25, §11A-3-56, §11A-3-57, and §11A-3-58 of the Code of West Virginia, 1931, as amended, all relating to increasing the limit to \$500 on additional expenses a purchaser may recover in preparing notice list for redemption of purchase and for licensed attorney's title examination.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 406**—A Bill to amend and reenact §11-10-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-18a of said code, all relating to the collection of tax and the priority of distribution of an estate or property in receivership, and the liability of the fiduciary.

Referred to the Committee on Finance.

**By Senator Trump:**

**Senate Bill 407**—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to presumptions of abandonment and indication of ownership in property held by a financial institution.

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

**By Senators Palumbo and Woelfel:**

**Senate Bill 408**—A Bill to amend and reenact §29-21-16 of the Code of West Virginia, 1931, as amended, relating to public defender services; and determining indigency.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Hamilton, Lindsay, Plymale, Prezioso, Smith, Sypolt, Trump, and Baldwin:**

**Senate Bill 409**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and reenact §24-2-1 of said code, all relating to permitting third-party ownership of all renewable and alternative generating facilities.

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

Senators Stollings, Palumbo, Plymale, Beach, Jeffries, Sypolt, Swope, Baldwin, and Hardesty offered the following resolution:

**Senate Resolution 16**—Recognizing the Daniel Boone VFW Post 5578 for dedicated service to its community, state, and country.

Whereas, The Daniel Boone VFW Post 5578 provides exceptional service programs to its veterans and the community, including: The Post Honor Guard, providing veterans their final military honor burial rites; participating at local community and state events where the veteran and those who serve, or have served, are to be honored; visiting all Boone County schools and giving an

“Americanism” program; providing a senior high school graduate from each high school in the county with a scholarship; and, during each December for well over six decades, providing to the less fortunate in the county a Christmas food box, while also distributing fruit baskets to numerous individuals in the community, including nursing homes and convalescent homes; and

Whereas, Under the leadership of Post Commander Curtis Mayhorn and Quartermaster Joe Golie, the chairs of each committee and every committee member, and in special partnership with the Post Auxiliary, the Daniel Boone VFW Post 5578 earned the honor of being named an All-American Post, one of only 50 Posts nationwide to receive this recognition; and

Whereas, The Daniel Boone VFW Post 5578 has demonstrated its dedication and commitment to its fellow veterans and community, and is a shining example of what can be accomplished with teamwork, dedication, and spirit; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Daniel Boone VFW Post 5578 for dedicated service to its community, state, and country; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to the members of the Daniel Boone VFW Post 5578 for their dedicated public service; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Daniel Boone VFW Post 5578.

At the request of Senator Stollings, 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 Takubo, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 16 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:25 a.m., the Senate recessed to present Senate Resolution 16.

The Senate reconvened at 11:27 a.m. and resumed business under the sixth order.

Senators Ihlenfeld, Sypolt, Woelfel, Palumbo, Plymale, Beach, Stollings, Hamilton, Unger, Takubo, Boso, Jeffries, Lindsay, Cline, Swope, Baldwin, and Rucker offered the following resolution:

**Senate Resolution 17**—Designating January 23, 2019, as Sexual and Domestic Violence Awareness Day at the Legislature.

Whereas, All people have a right to be safe in their home, school, workplace, college campus, and community; and

Whereas, On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men; and

Whereas, One in six women and one in 22 men in West Virginia will be victims of an attempted or completed forcible rape; and

Whereas, During the fiscal year 2016-2017, 14,175 individuals were served by one or more of the 14 licensed domestic violence programs in West Virginia, six of which also provide rape crisis services; and

Whereas, In West Virginia, 4,445 children were served a Child Advocacy Center as a new client last year, representing 1 in every 100 children in our state, and a 69 percent increase over the last five years; and

Whereas, Last year, 10 rape crisis centers provided 24/7 crisis intervention services in 45 counties and provided 1,097 prevention programs to over 20,000 students and residents; and

Whereas, The incarceration of sexual and domestic violence offenders in our state correctional facilities costs taxpayers tens of millions of dollars each year; and

Whereas, The lifetime economic burden of intimate partner violence among adults in the United States is \$103,767 of lifetime cost per female victim and \$23,414 of lifetime cost per male victim; and

Whereas, Domestic violence, sexual violence, and child abuse can be deterred, prevented, and reduced through a large network of private, public, and nonprofit entities working together as coalitions providing social, legal, medical, educational, and protective services for victims; and

Whereas, The West Virginia Coalition Against Domestic Violence and the West Virginia Foundation for Rape Information and Services have each been working for 37 years, individually and collaboratively, to provide safe spaces, quality services and systemic change. The West Virginia Child Advocacy Network has been working 10 years to give individuals, children, and families options for building lives free from violence; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 23, 2019, as Sexual and Domestic Violence Awareness Day in West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Coalition Against Domestic Violence.

At the request of Senator Ihlenfeld, 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 Takubo, and by unanimous consent, the remarks by Senators Ihlenfeld and Hardesty regarding the adoption of Senate Resolution 17 were ordered printed in the Appendix to the Journal.



On motion of Senator Takubo, at 11:32 a.m., the Senate recessed to present Senate Resolution 17.

The Senate reconvened at 11:35 a.m. and, at the request of Senator Trump, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Prezioso, Sypolt, Palumbo, Plymale, Beach, Stollings, Unger, Takubo, Jeffries, Swope, and Baldwin offered the following resolution:

**Senate Resolution 18**—Recognizing the 20th anniversary of the James “Tiger” Morton Catastrophic Illness Fund.

Whereas, James “Tiger” Morton had an illustrious career as a minister, teacher, coach, principal, special assistant for the Governor’s Office, and legislative liaison and ombudsman for what is now the West Virginia Department of Health and Human Resources; and

Whereas, James “Tiger” Morton created lasting relationships with, and earned respect from, governors and legislators, received many distinguished service awards, had a deep interest in children’s well-being, and helped West Virginians in need by arranging for medical transplants, assisting with applications for benefits, and everything in between; and

Whereas, His selfless devotion and compassion resulted in the creation of the James “Tiger” Morton Catastrophic Illness Fund in 1999 during the 74th regular session of the West Virginia Legislature; and

Whereas, James “Tiger” Morton’s contributions were so valued that his body was laid in state in the Capitol upon his passing; and

Whereas, The James “Tiger” Morton Catastrophic Illness Commission perpetuates his valuable legacy by providing a source of economic assistance outside the scope of existing public

programs to West Virginians facing catastrophic illness and saving many lives; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the 20th anniversary of the James “Tiger” Morton Catastrophic Illness Fund; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the James “Tiger” Morton Catastrophic Illness Fund.

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.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 18 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:41 a.m., the Senate recessed to present Senate Resolution 18.

The Senate reconvened at 11:44 a.m. and resumed business under the sixth order.

Senators Blair, Unger, Beach, Sypolt, Palumbo, Plymale, Stollings, Hamilton, Takubo, Hardesty, Boso, Jeffries, and Maynard offered the following resolution:

**Senate Resolution 19**—Designating January 23, 2019, as West Virginia for Broadband Day at the Capitol.

Whereas, The broadband industry strives to educate business leaders, economic development entities, and policy makers about the value of broadband and assists them in their efforts to enact effective decisions to expand internet access to all West Virginians, thereby advancing the future prosperity and diversity of our beautiful Mountain State; and

Whereas, Broadband access means West Virginians have more access to communicate. Today, broadband connectivity access means accessing a wide range of services and products used to enhance people's everyday lives and their daily communications; and

Whereas, Access to broadband connectivity enhances public safety, drives economic development, contributes to better living conditions through telehealth opportunities, and encourages educational, cultural, and entertainment opportunities; and

Whereas, West Virginia's broadband connections are growing throughout the Mountain State. A 2016 study provided that over the course of 18 months, 134,000 households had new or improved broadband speeds thanks to statewide investments from providers. Moreover, 16,900 households received entirely new broadband opportunities, while an additional 117,000 households gained improved speeds; and

Whereas, Since the year 2011, access to a wired connection of at least 10 mbps has improved throughout West Virginia from 44.5 percent to 91.3 percent. And, the West Virginia Broadband Program has received almost \$5 million in federal grant awards for West Virginia's Broadband Initiative since 2010; and

Whereas, Projects relating to broadband infrastructure have received almost \$130 million, accounting for 3.7 percent of all federal infrastructure grants in West Virginia; and

Whereas, Due to the rugged terrain of West Virginia, more and more people are connecting to broadband wirelessly. Small cell and 5G technology are part of that story; and

Whereas, The United States Chamber of Commerce has reported that small cell and 5G technology have the ability to be an economic game changer for the West Virginia and United States economies because of the benefits it will bring. That study reported that 5G and small cell networks have the capability to add 3,000,000 new jobs and \$5 billion in overall GDP; and

Whereas, Fifty-five hundred West Virginians are directly employed with an annual payroll of \$74 Million; and

Whereas, The broadband industry is proud of the work that has been done and is being done across the state to further broadband access and find ways to address connectivity challenges; and

Whereas, The broadband industry encourages people to become more aware of the new technologies like small cell and 5G that will enable more West Virginia businesses and their employees to connect to a global economy; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 23, 2019, as West Virginia for Broadband Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Broadband Day at the Capitol.

At the request of Senator Plymale, 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 Takubo, and by unanimous consent, the remarks by Senators Plymale and Smith regarding the adoption of Senate Resolution 19 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:49 a.m., the Senate recessed to present Senate Resolution 19.

The Senate reconvened at 11:51 a.m. and proceeded to the seventh order of business.

**Senate Concurrent Resolution 15**, Studying feasibility of requiring all state agencies that collect fees and fines to deposit those funds in General Revenue Fund.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 1**, Increasing access to career education and workforce training.

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 Committee Substitute for Senate Bill 1 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, 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. 1) passed with its title.

*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 Takubo, and by unanimous consent, the remarks by Senators Rucker, Prezioso, Plymale, Blair, Hardesty, and Boso regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 1 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill 18**, Relating to crimes committed on State Capitol Complex.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 18) passed.

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 Senate Bill 18**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to crimes against the peace generally; relating to offenses occurring at State Capitol Complex property; and removing the requirement that a person lawfully entitled to possess a firearm must have a concealed weapons permit to have a firearm secured and out of view in his or her vehicle on the State Capitol Complex.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 18) 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 255**, Relating to Emergency Medical Services Advisory Committee.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 255) 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 354**, Expiring funds to balance of Auditor's Office - Chief Inspector's 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 354) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 354) takes effect from passage.

*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.

**Com. Sub. for Senate Bill 223**, Authorizing Department of Commerce promulgate legislative rules.

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

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section two, line three, by striking out the words “rules and regulations” and inserting in lieu thereof the word “rule”;

And,

On page two, section two, line eight, by striking out the words “rules and regulations” and inserting in lieu thereof the word “rule”.



The bill (Com. Sub. for S. B. 223), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Woelfel, Maynard, and Takubo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:16 p.m., the Senate adjourned until tomorrow, Thursday, January 24, 2019, at 11 a.m.

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## THURSDAY, JANUARY 24, 2019

The Senate met at 11:12 a.m.

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

Prayer was offered by the Reverend Father Leon Alexander, Saint John XXIII Pastoral Center, Charleston, West Virginia.

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 Wednesday, January 23, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2095**—A Bill to amend and reenact §18-2-39 of the Code of West Virginia, 1931, as amended, relating to assessing college- and career-readiness of 11th and 12th grade students; removing requirement for use of mutually agreed upon assessment after completion of 12th grade transition course; authorizing periodic examinations of student progress; prohibiting requirement to retake or administer college and career ready examinations to transition course students; removing limitation on state institutions of higher education to use only the examinations to determine student enrollment in remedial courses; and authorizing use of other data sources to determine appropriate course placement.

Referred to the Committee on Education.

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 2193**—A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-8-2a, all relating to providing for the specific escheat of United States savings bonds and all rights and legal title thereto; and defining terms.

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 2423**—A Bill to amend and reenact §62-12-26 of the Code of West Virginia, 1931, as amended, relating to prohibiting certain sex offenders from being in a supervisory position over children.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 19**, Relating to Senior Farmers Market Nutrition Program.

And,

**Senate Bill 259**, Expanding Coyote Control Program.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration  
**Senate Bill 63**, Relating to partial filling of prescriptions.

With an amendment 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 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

**Senate Bill 167**, DEP rule relating to requirements governing water quality standards.

And has amended same.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Energy, Industry, and Mining pending.

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 236**, Providing notice of eligibility to persons to vote after completion of punishment or pardon.

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

**Com. Sub. for Senate Bill 236** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-2-2 of the Code of West Virginia, 1931, as amended, relating generally to eligibility to register to vote; providing that a person who has been convicted of certain criminal offenses and rendered ineligible to vote may register to vote upon completion of his or her sentence, upon an order from a court vacating or overturning his or her conviction, or upon an order of pardon from the Governor; requiring the Division of Corrections and Rehabilitation to provide a person in the custody or under the supervision of the division with written notice that he or she is no longer ineligible to register to vote and a voter registration form upon release or discharge of such person; requiring a probation officer of the Supreme Court of Appeals' Division of Probation Services to provide a person under such officer's supervision with written notice that he or she is no longer ineligible to register to vote and a voter registration form upon discharge of such person; and clarifying that renewed eligibility of previously convicted persons to register to vote does not permit such persons to register after pre-election registration deadlines.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills and joint resolution were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Maynard, Hamilton, Cline, and Tarr:**

**Senate Bill 410**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2019; prohibiting the removal, renaming, alteration, or relocation of any statue, monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office and which is located on public property and has been erected for, or named or dedicated in honor of, certain historical, military, labor, civil rights, and Native-American events, figures, and organizations; prohibiting any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas recognized by the West Virginia State Historic Preservation Office; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Stollings, and Maroney:**

**Senate Bill 411**—A Bill to amend and reenact §5A-10-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5A-11-3 of said code, all relating to the disposition of vacated school buildings or other state-owned buildings; requiring Real Estate Division to develop minimum standards for use, renovation, or disposition of vacated buildings; maintaining certain legal responsibilities of the previous owner; and authorizing the Public Land Corporation to acquire vacated buildings through legal transactions and conveyances.

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

**By Senators Beach and Hamilton:**

**Senate Bill 412**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-11-9b, relating to the Katherine Johnson Fair Pay Act of 2019; honoring Katherine Coleman Johnson; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about his or her wages, benefits, or other compensation or sharing information about another employee's wages, benefits, or other compensation; making it unlawful for an employer to require a waiver of employees' rights to disclose information about his or her wages, benefits, or other compensation or to share information about another employee's wages, benefits, or other compensation; and limiting employers' inquiry into applicants' wage and salary history.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Baldwin, Stollings, Boso, and Clements:**

**Senate Bill 413**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-13-7, relating to the West Virginia Stream Partners Program; and authorizing the creation of an Adopt-A-Stream Program.

Referred to the Committee on Government Organization.

**By Senators Azinger, Cline, Maynard, Tarr, and Boso:**

**Senate Bill 414**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-3, and §1-7-4, all relating to creating the Protect Our Right to Unite Act; providing its purpose and intent; providing for the protection of privacy of association; authorizing enforcement by state or citizen action; providing for damages and attorneys' fees; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Azinger, Cline, Maynard, and Tarr:**

**Senate Bill 415**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated

§37D-1-1, §37D-1-2, §37D-1-3, §37D-1-4, §37D-1-5, §37D-1-6, §37D-1-7, §37D-2-1, §37D-2-2, §37D-2-3, §37D-2-4, §37D-2-5, §37D-2-6, §37D-2-7, §37D-2-8, and §37D-2-9, all relating to creating the Timber Cotenancy Modernization and Majority Protection Act and the Unknown and Unlocatable Timber Interest Owners Act; permitting the severance of timber by fewer than all the interest owners under certain conditions; providing an exception to waste and trespass; providing short titles; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use and harvesting of timber by the persons owning an undivided three fourths of the royalty interests, as defined, in the timber estate is permissible, is not waste, and is not trespass; providing that nonconsenting cotenants may elect a severance royalty interest or a working interest share of severance; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund hereby created, known as the Unknown and Unlocatable Timber Interest Owners Fund, to be administered by the State Treasurer in conjunction with the West Virginia Uniform Unclaimed Property Act; providing methods for determination of leasehold and contractual terms, including reviews and determinations; providing liability protection for damages resulting from the lawful use or harvesting of timber; requiring surface use agreements in specified circumstances; providing a mechanism for surface owners to acquire title to certain severed timber interests; preserving common law rights; providing for severability of provisions; providing reporting requirements and administrative duties, including civil penalties for noncompliance under the West Virginia Uniform Unclaimed Property Act; and providing for rule-making authority.

Referred to the Committee on the Judiciary.

**By Senators Sybolt (By Request), Smith, Maynard, Boso, and Maroney:**

**Senate Bill 416**—A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to permitting a bona fide resident land owner to hunt and kill a bear on the land owner's private property through the use of bait.



Referred to the Committee on Natural Resources.

**By Senators Tarr, Azinger, Clements, Cline, Maynard, Roberts, Smith, Sypolt, Boso, and Maroney:**

**Senate Bill 417**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-4-703a, relating to requiring minors in possession of marijuana, and their parents or legal guardians, to attend classes teaching the dangers of marijuana; fees charged; and procedure for failure to attend.

Referred to the Committee on the Judiciary.

**By Senators Mann, Hamilton, Jeffries, Weld, Baldwin, Facemire, Boso, Prezioso, and Hardesty:**

**Senate Bill 418**—A Bill to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-10D-1 of said code; to amend and reenact §20-2B-10 of said code; to amend said code by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7, §20-17-8, §20-17-9, §20-17-10, §20-17-11, §20-17-12, §20-17-13, §20-17-14, §20-17-15, §20-17-16, §20-17-17, §20-17-18, §20-17-19, §20-17-20, §20-17-21, §20-17-22, §20-17-23, §20-17-24, §20-17-25, §20-17-26, §20-17-27, §20-17-28, §20-17-29, §20-17-30, §20-17-31, §20-17-32, §20-17-33, §20-17-34, §20-17-35, and §20-17-36; and to amend said code by adding thereto a new article, designated §20-18-1, all relating to establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

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

**By Senators Hamilton, Ihlenfeld, Jeffries, Mann, Romano, Smith, Sypolt, Unger, Baldwin, Stollings, Boso, Woelfel, Lindsay, and Prezioso:**

**Senate Bill 419**—A Bill to amend and reenact §3-8-2b of the Code of West Virginia, 1931, as amended, relating to requiring a political action committee to disclose the names and addresses of its contributors to the Secretary of State.

Referred to the Committee on the Judiciary.

**By Senators Smith, Sypolt, and Cline:**

**Senate Bill 420**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3tt, relating to allowing county commissions to impose an amusement tax.

Referred to the Committee on Finance.

**By Senators Smith, Sypolt, Cline, and Maroney:**

**Senate Bill 421**—A Bill to amend and reenact §5B-2E-10 of the Code of West Virginia, 1931, as amended, relating to annual legislative review of the economic development tax credit.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 422**—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2019, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 423**—A Bill supplementing and amending by adding a new appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Revenue, State Budget Office, fund 0595, fiscal year 2019, organization 0703, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 424**—A Bill supplementing and amending by adding a new item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2019, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 425**—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, Division of Corrections, Correctional Units, fund 0450, fiscal year 2019, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Tarr, Carmichael (Mr. President), Azinger, Blair, Boso, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Weld, Clements, and Hardesty:**

**Senate Joint Resolution 9**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 22, article III thereof, relating to the right to keep and bear arms; prohibiting restriction of this amendment by state or local government; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Prezioso, Beach, Sypolt, Smith, Clements, Maroney, Jeffries, Hardesty, Baldwin, Stollings, Hamilton, Palumbo, Unger,

Boso, Swope, Cline, and Facemire offered the following resolution:

**Senate Resolution 20**—Designating January 24, 2019, as West Virginia University and West Virginia University Extension Service Day at the Legislature.

Whereas, West Virginia University is the state’s first and largest land-grant university, and has been dedicated to serving the citizens of West Virginia for more than 150 years; and

Whereas, West Virginia University offers students the perks and programs of a major research institution at a price below the national average; and

Whereas, West Virginia University offers more than 340 majors at the bachelor’s, master’s, doctoral, and professional levels—including everything from accounting to world languages; and

Whereas, The West Virginia University Extension Service, the primary outreach arm of West Virginia University, is the “front porch” of the university, with an office in each of the state’s 55 counties; and

Whereas, Extension agents and specialists deliver trusted traditions and progressive solutions to the citizens of West Virginia in the areas of youth development, agriculture, and family and community development; and

Whereas, West Virginia University Extension Service’s 4-H Youth Development Program, the state’s largest youth organization, has given more than 75,000 youths the opportunity to expand their horizons through hands-on programming and camping experiences, such as building robots, helping the environment, coding (as part of 4-H’s National Youth Science Day Challenge), traveling around the globe, and fostering healthy lifestyles; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 24, 2019, as West Virginia University and West Virginia University Extension Service Day at the Legislature; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the President of West Virginia University, E. Gordon Gee, and to the West Virginia University Extension Service.

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.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 20 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:26 a.m., the Senate recessed to present Senate Resolution 20.

The Senate reconvened at 11:30 a.m. and resumed business under the sixth order.

Senators Beach, Baldwin, Stollings, Palumbo, Unger, Swope, Sypolt, Prezioso, and Cline offered the following resolution:

**Senate Resolution 21**—Designating January 24, 2019, as Human Resources Day at the Capitol.

Whereas, Human resources, also known as the people managers, refers to how employees are managed from small businesses and municipalities to large corporations and national governments; and

Whereas, Traditionally, human resources dealt with the part of an organization or company that was responsible for hiring, firing, training, and other personnel issues; and

Whereas, Today, human resources encompasses a vast area of diverse and dynamic issues that affect the everyday lives of our workforce; and

Whereas, In an effort to enhance morale and productivity, limit job turnover, and help organizations increase performance and improve results, human resources workers also help their companies or organizations effectively use employee skills, by providing training and development opportunities to improve those skills and increasing employees' satisfaction with their job and working conditions; and

Whereas, In today's economy, human resources has become increasingly difficult as companies and organizations have instituted cost-cutting measures requiring human resources workers to play a vital role in tackling these issues sensibly and responsibly for their company and its employees; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 24, 2014, as Human Resources Day at the Capitol; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to the professionals working in the field of human resources; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Human Resources Day at the Capitol.

At the request of Senator Beach, 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 Takubo, and by unanimous consent, the remarks by Senator Beach regarding the adoption of Senate Resolution 21 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:33 a.m., the Senate recessed to present Senate Resolution 21.

The Senate reconvened at 11:37 a.m. and proceeded to the seventh order of business.

**Com. Sub. for Senate Concurrent Resolution 4**, US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road.

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 9**, US Army PFC Winten L. Ways Memorial Bridge.

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

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

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 223**, Authorizing Department of Commerce promulgate legislative rules.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, 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. 223) passed.

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 Senate Bill 223**—A Bill to amend and reenact §64-10-1, §64-10-2, and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing agencies of the Department of Commerce to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection; authorizing the Division of Labor to promulgate a legislative rule relating to child labor; authorizing the Division of Labor to promulgate a legislative rule relating to regulation of heating, ventilating, and cooling work; authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to a rule governing the safety of those employed in and around surface mines in West Virginia; authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to a rule governing the submission and approval of a comprehensive mine safety program for coal mining operations in the State of West Virginia; authorizing the Office of Miners' Health, Safety, and Training to promulgate a legislative rule relating to rules for operating diesel equipment in underground mines in West Virginia; authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; and authorizing the Division of Natural Resources to promulgate a legislative rule relating to rules for



Cabwaylingo State Forest trail system two-year pilot project permitting ATVs and ORVs.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, 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. 223) 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 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

At the request of Senator Trump, 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.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 55**, Relating to driving privileges and requirements for persons under 18.

**Com. Sub. for Senate Bill 101**, Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

**Com. Sub. for Senate Bill 124**, Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

**Senate Bill 233**, Relating to age requirements for deputy sheriff.

**Com. Sub. for Senate Bill 241**, Permitting county court clerks scan certain documents in electronic form.

**Senate Bill 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

And,

**Senate Bill 269**, Updating terms used in WV Personal Income Tax Act.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Weld, Plymale, Beach, Smith, Baldwin, Takubo, Hardesty, and Tarr.

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Stollings, the name of Senator Stollings was removed as a sponsor of **Senate Bill 365** (*Redistributing revenue-generated excise tax on soft drinks to four-year medical schools*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:18 p.m., the Senate adjourned until tomorrow, Friday, January 25, 2019, at 11 a.m.

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## FRIDAY, JANUARY 25, 2019

The Senate met at 11:10 a.m.

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

Prayer was offered by Rabbi Victor H. Urecki, B'nai Jacob Synagogue, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Eric J. Tarr, a senator from the fourth district.

Pending the reading of the Journal of Thursday, January 24, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2346**—A Bill to amend and reenact §29-22C-2, §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-13, §29-22C-14, §29-22C-15, §29-22C-16, §29-22C-17, §29-22C-18, §29-22C-19, §29-22C-29, and §29-22C-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-2, §29-25-3, §29-25-8, §29-25-12, §29-25-13, §29-25-14, §29-25-15, §29-25-16, §29-25-17, §29-25-18, §29-25-22, §29-25-25, and §29-25-27, all relating to changing the licensing requirement for certain casino employees from a licensure to a registration; and granting emergency rule making authority.

Referred to the Committee on Government Organization; and then 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 2360**—A Bill to amend and reenact §29-5A-1a of the Code of West Virginia, 1931, as amended, relating to placing the Athletic Commission under the Lottery Commission, and continuing the terms of the current commissioners.

Referred to the Committee on Government Organization; and then 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 2412**—A Bill to repeal §5A-3-28, §5A-3-30, and §5A-3-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-5B-1, §61-5B-2, §61-5B-3, and §61-5B-4, relating to prohibited conduct concerning government procurement of commodities and services; moving certain provisions relating to government

procurement from chapter 5A to chapter 61; defining terms; including the provision of cash, credit, and waivers of debt or liability as commodities; prohibiting procurement authorities from having personal interest in government procurement; applying provisions to all branches and units of state government; prohibiting fraud and attempts to defraud government entities in procurement; prohibiting knowing acceptance and delivery of inferior goods and services; defining unfair and corrupt acts regarding change orders; and establishing criminal penalties therefor.

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 2422**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to providing for the county board to select the week for the observation of “Celebrate Freedom Week” and adding the Emancipation Proclamation as a document to be studied.

Referred to the Committee on Education.

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 2459**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-3a, relating to exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

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 2462**—A Bill to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating to the training, qualification, certification and authorization for carry of firearms by correctional employees; providing that after successful completion of designated firearms training, the commissioner may issue a certificate to carry division issued firearms to correctional employees; establishing that authorized correctional employees may carry division-issued firearms during performance of official duties and when traveling to and from work; establishing the commissioner's firearm training program must be equivalent to the firearms training requirements for deputy sheriffs; requiring that the correctional employee must successfully complete an annual designated firearms course as established by legislative rule to maintain the certificate; and, providing the certificate bearing the commissioner's signature shall be in a form prescribed by the commissioner.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 4**, Relating generally to Municipal Home Rule Program.

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

**Com. Sub. for Senate Bill 4** (originating in the Committee on Government Organization)—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; 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 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 that would affect state's required compliance or jeopardize federal funding; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation contrary to laws or rules governing procurement of architectural and engineering services; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation

contrary to chapter 17C of the Code of West Virginia, 1931, as amended; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing communication technologies or telecommunication carriers; prohibiting municipalities from enacting any ordinance, act, resolution, rule, or regulation that imposes duties on another governmental entity; providing certain exceptions to that prohibition; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation that prohibits or limits rental of a property or regulates duration, frequency, or location of such rental; providing certain exceptions to that prohibition and limitation; providing procedures for protesting enactment or amendment of ordinance, act, resolution, rule, or regulation through petition; providing that duly protested enactments shall not become effective unless ratified through majority vote at a regular or special election; specifying voting procedure; providing that certain bonds must be ratified by majority vote before becoming effective; specifying voting procedure for bond ratification; modifying reporting requirements; and eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 14**, Creating WV Farm-to-School Grant Program.

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



**Com. Sub. for Senate Bill 14** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, and §19-37-4, all relating to creating the West Virginia Farm-to-School Grant Program; setting out findings and purpose; creating the fund; providing method for allocating grants; limiting grants; authorizing rulemaking; and requiring program review and reports.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 14), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 72**, Creating Sexual Assault Victims' Bill of Rights.

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

**Com. Sub. for Senate Bill 72** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits, and other similar topics; clarifying the right of a victim to be accompanied by a personal representative

during certain proceedings; requiring sexual assault victims be informed or notified of certain rights; incorporating other rights contained in code; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 102**, Relating generally to powers and authority of courthouse security officers.

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

**Com. Sub. for Senate Bill 102** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-19, relating to granting courthouse security officers arrest powers under certain circumstances; authorizing certain West Virginia courthouse security officers to carry concealed firearms while off duty with court approval; setting forth firearm training and qualification requirements; requiring supervising authority to issue photo identification and certification cards; specifying policy content; and stating legislative intent that the new code section be consistent with the federal Law-Enforcement Officers Safety Act.

And,

**Senate Bills 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, and 222**, Athletic

Commission rule relating to administrative rules of State Athletic Commission.

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

**Com. Sub. for Senate Bill 199** (originating in the Committee on the Judiciary)—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, and §64-9-11 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission; 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 industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to rural rehabilitation loan program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farm-to-food bank tax credit; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to agritourism; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification program; authorizing the Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatric physicians and surgeons; authorizing the Board of Medicine to promulgate a legislative rule relating to permitting and disciplinary procedures: educational permits for graduate medical interns, residents, and fellows; authorizing the Board of

Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; 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 Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to rules for the substitution of biological pharmaceuticals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to policies, standards, and criteria for the evaluation, approval, and national nursing accreditation of prelicensure nursing education programs; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure, and conduct constituting professional misconduct; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to advanced practice registered nurse licensure requirements; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to scope of professional nursing practice; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to fees for services rendered by the board and supplemental renewal fee for the Center for Nursing; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to dialysis technicians; authorizing the Secretary of State to promulgate a legislative rule relating to filing and formatting rules and related documents and other documents for publication in the State Register; authorizing the Secretary of State to promulgate a legislative rule relating to loan and grant programs under the Help America Vote Act for the purchase of voting equipment, election systems, software, services, and upgrades; authorizing the

Secretary of State to promulgate a legislative rule relating to early voting in-person satellite precincts; authorizing the Secretary of State to promulgate a legislative rule relating to notaries public; authorizing the Board of Social Work Examiners to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work Examiners to promulgate a legislative rule relating to code of ethics; and authorizing the Treasurer's Office to promulgate a legislative rule relating to reporting and claiming unknown and unlocatable interest owners' reserved interests.

With the recommendation that the two committee substitutes 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

**Senate Bill 149**, Exempting certain veterans from concealed weapons license fees.

**Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

And,

**Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

And reports the same back with the recommendation that they each 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 243**, Requiring racetrack participate in WV Thoroughbred Development Fund.

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

**Com. Sub. for Senate Bill 243** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended, relating to modifying the requirement that a racetrack must have participated in the West Virginia Thoroughbred Development Fund since, on, or before January 1, 1999, in order for counties to receive two percent of the net terminal income where the video lottery terminals are located.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

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

**Com. Sub. for Senate Bill 270** (originating in the Committee on Government Organization)—A Bill to amend and reenact §17-2A-17a of the Code of West Virginia, 1931, as amended; and to

amend and reenact §17-2E-2, §17-2E-3, §17-2E-5, and §17-2E-6 of said code, all relating to the use of state-owned rights-of-way; modifying requirements related to accommodation leases; providing for the determination of fair market value and compensation for accommodation leases; amending procedures and requirements of the state's dig once policy; modifying definitions; providing for the determination of fair market value and compensation to Division of Highways relating to dig once policy; modifying notice requirements for permit applicants; amending procedures for the adjudication of disputes between telecommunications carriers; providing certain exemptions from dig once requirements; and authorizing the Division of Highways to, upon approval of the Governor, transfer or assign the ownership, control, or any rights related to any in-kind compensation received by the division to any other state agency.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 285**, Relating to modification of cottage food laws.

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

**Com. Sub. for Senate Bill 285** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §19-35-2 and §19-35-5 of the Code of West Virginia, 1931, as amended, all relating to modifying cottage food laws.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 285), under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Bill 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

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

**Com. Sub. for Senate Bill 390** (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31G-4-4, relating to determining the feasibility of electric utilities constructing and operating middle-mile broadband Internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in determining the feasibility of certain proposed middle-mile broadband development projects; permitting the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband Internet projects within a certain period of time; and requiring certain reports be submitted to certain officials and committees.



With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Maroney, 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. House Bill 2351**, Relating to regulating prior authorizations.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Weld, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Sypolt, Boso, Cline, Stollings, and Roberts:**

**Senate Bill 426**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto six new sections, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, §17-30-5, and §17-30-6, all relating to creating the Road Maintenance Program; providing for legislative intent; providing for certain maintenance activities to be performed by private contractors; providing for payment; providing for purchasing requirements; providing for reports and

audit reviews; providing an effective date; and providing severability.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Sypolt, Romano, Boso, and Baldwin:**

**Senate Bill 427**—A Bill to amend and reenact §17-16A-29 of the Code of West Virginia, 1931, as amended, relating to including emergency response vehicles in the single fee program for EZ Pass transponders.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Sypolt, Boso, and Cline:**

**Senate Bill 428**—A Bill to amend and reenact §15A-4-21 of the Code of West Virginia, 1931, as amended, relating to requiring the Division of Corrections and Rehabilitation to assist inmates, prior to release, obtain a certified copy of his or her birth certificate, a Social Security card, and a driver's license or a state issued identification card; and requiring the commissioner to provide those inmates instruction in basic life skills, including, but not limited to, managing personal finances, writing a check, balancing a check book, writing a resume, and being interviewed for employment.

Referred to the Committee on the Judiciary.

**By Senators Romano, Baldwin, Beach, Facemire, Jeffries, Lindsay, Stollings, Swope, Woelfel, Hardesty, and Palumbo:**

**Senate Bill 429**—A Bill to amend and reenact §3-2-6 of the Code of West Virginia, 1931, as amended, relating to allowing voters who register in person at the office of the county clerk to register and vote during early in-person voting.

Referred to the Committee on the Judiciary.

**By Senators Boso, Swope, and Cline:**

**Senate Bill 430**—A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, relating to authorizing

the Secretary of the Department of Health and Human Resources to propose rules related to completion or updating source water protection plans.

Referred to the Committee on Government Organization.

**By Senators Boso, Roberts, Swope, and Cline:**

**Senate Bill 431**—A Bill to amend and reenact §9-6-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-2-809 of said code, all relating to mandatory reporting procedures of abuse and neglect of adults and children.

Referred to the Committee on Health and Human Resources.

**By Senators Sypolt and Boso:**

**Senate Bill 432**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, §16-56-4, §16-56-5, §16-56-6, §16-56-7, §16-56-8, §16-56-9, §16-56-10, §16-56-11, §16-56-12, §16-56-13, §16-56-14, and §16-56-15, all relating to enacting the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact; entering into the compact with all jurisdictions also enacting the compact; stating purpose of compact; defining terms; identifying member states as home states; retaining authority of member state to require license under circumstances not covered by compact; setting conditions for home state's license to authorize practice in a remote state under the compact; requiring member states to recognize licenses issued by another member state under certain conditions; setting requirements for individuals to exercise privilege to practice; setting scope of practice; making individuals practicing in remote states subject to that state's laws; authorizing remote states to take action against individual's privilege to practice within that state under certain circumstances; providing effect of restrictions on license on compact privileges; setting conditions of practicing in remote state under compact terms; defining relationship of compact with Emergency Management Assistance Compact; setting terms and requirements for certification of veterans, certain service members, and their spouses; recognizing exclusive power of home states to impose adverse action against license issued by home state; providing

consequences for compact participation if individual's license is subject to adverse action by home state; requiring member states to report adverse actions against licenses; authorizing states to take action against individual's privilege to practice within that state; requiring home state EMS authority investigate and take appropriate action based on reported conduct in remote state; authorizing alternative programs in lieu of adverse action; authorizing member state's EMS authority to issue subpoenas; authorizing member state's EMS authority to issue certain cease and desist orders; establishing Interstate Commission for EMS Personnel Practice; providing venue; maintaining state sovereign immunity; providing for membership; providing for voting; requiring annual meetings; requiring meetings to be public; providing exceptions; authorizing commission prescribe bylaws and/or rules to govern conduct; granting certain powers to commission; providing for financing for the commission; making validity of annual assessment against state contingent upon funds being appropriated by the Legislature or otherwise being made available; providing for qualified immunity of certain persons; requiring commission defend certain persons for actions arising out of actions occurring within the scope of duties related to the commission; requiring commission indemnify and hold harmless certain persons under certain circumstances; providing for development and maintenance of coordinated database and reporting system; requiring member states provide certain information to coordinated database; requiring notification by coordinated database administrator of adverse action taken against individual in member state; authorizing member state to designate information not to be shared with the public without express permission of contributing state; providing for removal of information from database when required to be expunged; authorizing rule-making commission; providing scope of rulemaking; providing procedures for rulemaking; authorizing emergency rulemaking by the commission; providing that commission rules are not binding on the State of West Virginia until they have been authorized as legislative rules; providing time line and procedure for proposing legislative rules; authorizing emergency rulemaking; directing state government to enforce compact and take necessary actions to effectuate its purposes and

intent; directing courts take judicial notice of compact and rules promulgated pursuant to compact; providing procedures for the commission to follow if member state has defaulted; authorizing member state be terminated from the compact under certain conditions; setting terms of termination; authorizing appeal; authorizing mediation and binding dispute resolution between commission and member state; authorizing enforcement of the compact by the commission; authorizing legal action; establishing venue; providing for venue in West Virginia; providing implementation date for the compact; making any state joining after implementation subject to rules as they exist when the compact is adopted; authorizing member state withdraw from the compact; maintaining member state authority to enter into licensure or cooperative agreements with nonmember state; authorizing amendment of the compact; providing for liberal construction; providing for severability of the compact if it is found to violate constitution of member state; directing Emergency Medical Services Advisory Council review decisions of the commission; and authorizing Emergency Medical Services Advisory Council make recommendation to Legislature for withdrawal from the compact.

Referred to the Committee on Government Organization.

**By Senators Plymale (By Request) and Boso:**

**Senate Bill 433**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-31, relating to recognizing a fetus as a separate victim.

Referred to the Committee on the Judiciary.

**By Senators Boso and Swope:**

**Senate Bill 434**—A Bill to repeal §16-5C-16 and §16-5C-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-5C-2, §16-5C-4, §16-5C-5, §16-5C-6, §16-5C-7, §16-5C-8, §16-5C-9, §16-5C-9a, §16-5C-10, §16-5C-11, §16-5C-12, §16-5C-12a, §16-5C-13, §16-5C-14, §16-5C-15, §16-5C-18, §16-5C-20, §16-5C-21, and §16-5C-22 of said code, all relating to the licensure of nursing homes; repealing duplicative sections of code;

defining terms; clarifying rule requirements; and clarifying enforcement action and due process procedures.

Referred to the Committee on Health and Human Resources.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 435**—A Bill supplementing and amending by increasing an existing item of appropriation and adding new item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the State Board of Education, State Department of Education, fund 0313, fiscal year 2019, organization 0402, and to the State Board of Education, Vocational Division, fund 0390, fiscal year 2019, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Baldwin, Mann, and Boso:**

**Senate Bill 436**—A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting from property tax certain real properties in this state owned by a nonprofit corporation with the purpose of organizing, supporting, and maintaining a contemporary agricultural and industrial fair and exposition.

Referred to the Committee on Finance.

**By Senator Baldwin:**

**Senate Bill 437**—A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-5 of said code, all relating to the criteria for political party status; allowing a group of affiliated voters to become a recognized political party if the group's candidate receives one percent of the votes in an election for any one of six statewide offices, including that of Governor, Secretary of State, Treasurer, Auditor, Attorney General, or Commissioner of Agriculture; allowing a group of affiliated voters to become a recognized political party if 5,000 or more individuals have identified as members of the group on their current voter

registration forms; and requiring voting registration forms to provide a space for individuals who do not select a political party affiliation to write the name of a group of affiliated voters to which they belong.

Referred to the Committee on the Judiciary.

**By Senators Romano and Baldwin:**

**Senate Bill 438**—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to creating an online voters' guide; requiring all information in the certificate of announcement; permitting candidates running for statewide office to submit a personal statement; directing the State Election Committee to create the guide; and requiring the Secretary of State post the voters' guide on its website.

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

**By Senators Beach, Baldwin, Cline, Lindsay, and Jeffries:**

**Senate Bill 439**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, and §11-28-3, all relating to creating five-year tax credits for persons engaged in industrial hemp manufacturing; setting eligibility requirements for tax credit; establishing amount of tax credit allowed; establishing how the credit may be applied; and authorizing rules.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

Senators Romano, Azinger, Baldwin, Beach, Hardesty, Jeffries, Lindsay, Maynard, Unger, Boso, Palumbo, Swope, and Stollings offered the following resolution:

**Senate Concurrent Resolution 16**—Requesting the Division of Highways name bridge number 08-1-17.04 (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 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 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 SP4 Wilbur Allen Smith and his contributions and sacrifice for 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 08-1-17.04 (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 Romano, Baldwin, Lindsay, Hardesty, Woelfel, Beach, Unger, Boso, Palumbo, Swope, Jeffries, and Stollings offered the following resolution:

**Senate Concurrent Resolution 17**—Requesting the Division of Highways name bridge number 17-7-4.07 (17A042), locally known as Sardis Bridge, carrying County Route 7 over Tenmile Creek in Harrison County, the “Sardis District Veterans Memorial Bridge”.

Whereas, Naming this bridge after all the men and women who have served in the United States armed forces from the Sardis District is a fitting and enduring memorial to commemorate their service; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-7-4.07 (17A042), locally known as Sardis Bridge, carrying County Route 7 over Tenmile Creek in Harrison County, the “Sardis District Veterans 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 “Sardis District Veterans 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.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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 253 pass?”

Senator Tarr 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 is a business owner in West Virginia who has businesses that bill on a monthly basis.

The Chair replied that any impact on Senator Tarr 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: Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Maynard, and Tarr—3.

Absent: Boley, Boso, Mann, and Takubo—4.

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. 253) 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.

**Com. Sub. for Senate Bill 55,** Relating to driving privileges and requirements for persons under 18.

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

**Com. Sub. for Senate Bill 101,** Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

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

**Com. Sub. for Senate Bill 124,** Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

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

**Senate Bill 233,** Relating to age requirements for deputy sheriff.

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

**Com. Sub. for Senate Bill 241,** Permitting county court clerks scan certain documents in electronic form.

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

**Com. Sub. for Senate Bill 258,** Establishing common law “veil piercing” claims not be used to impose personal liability.

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

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

**Senate Bill 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

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

**Senate Bill 269**, Updating terms used in WV Personal Income Tax Act.

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

The Senate proceeded to the tenth order of business.

**Senate Bill 63**, Relating to partial filling of prescriptions.

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

**Com. Sub. for Senate Bill 236**, Providing notice of eligibility to persons to vote after completion of punishment or pardon.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Hardesty, the name of Senator Hardesty was removed as a sponsor of **Senate Bill 359** (*Creating Youth Mental Health Protection Act*).

At the request of Senator Weld, and by unanimous consent, leaves of absences for the day were granted Senators Boley, Boso, Mann, and Takubo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 11:52 a.m., the Senate adjourned until Monday, January 28, 2019, at 11 a.m.

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## MONDAY, JANUARY 28, 2019

The Senate met at 11:11 a.m.

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

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Bill Hamilton, a senator from the eleventh district.

Pending the reading of the Journal of Friday, January 25, 2019,

At the request of Senator Swope, 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 communication from a state agency as required by the provisions of law:

Lottery Commission (Comprehensive Annual Financial Report) (§29-22-20)

The Senate then proceeded to the third order of business.

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

**Eng. House Bill 2009**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5E-8, relating to creating a new category of Innovation in Education grant program designated Innovation in Education/Mastery-Based; making findings and stating purpose and intent; providing definitions; delineating applicability of other Innovation in Education provisions of article; specifying duties of

state board with respect to program; requiring participation in incubator process; prohibiting penalties for students who transfer from mastery-based schools; and requiring institutions of higher education to recognize and accept high school diplomas on equal footing.

Referred to the Committee on Education.

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 2446**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3C-1, §15-3C-2, §15-3C-3, §15-3C-4, §15-3C-5, §15-3C-6, and §15-3C-7 of said code, all relating to the establishment of an alert system for law-enforcement officers missing in the line of duty or person suspected of killing or inflicting life threatening injuries upon a law-enforcement officer who remain at large; providing legislative findings and declarations relative to the Blue Alert plan; establishment of a Blue Alert program; definitions; activation of a Blue Alert; notice to participating media; broadcasting of a Blue Alert; notification to the Department of Transportation, the Division of Highways and the West Virginia Turnpike Commission of the Blue Alert; termination of the Blue Alert; immunity from criminal or civil liability; and authorization to promulgate guidelines and procedural rules.

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. House Bill 2509**—A Bill to amend and reenact §60A-4-403 of the Code of West Virginia, 1931, as amended, relating to clarifying that theft of a controlled substance is a felony.

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 2527**—A Bill to amend and reenact §29-22-12 of the Code of West Virginia, 1931, as amended, relating to forgery and other crimes concerning lottery tickets; requiring any sentencing be by determinate sentence.

Referred to the Committee on the Judiciary.

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

**Senate Bill 40**, Establishing Mental Health and Military Service Member Court program.

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

**Com. Sub. for Senate Bill 40** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, and §62-16-5, all relating to establishing a Military Service Members Court program within the Supreme Court of Appeals; defining terms; granting authority to the Supreme Court of Appeals to establish a Military Service Members Court program under the oversight of its administrator; providing for no termination of any program until at least six months after written notice of the intent to terminate the program has been provided by the Supreme Court of Appeals Administrator to the Speaker of the House of Delegates and the President of the Senate; providing for funding mechanisms which may include court fees; providing for limitation of liability; setting forth structure of the court; setting forth eligibility requirements for participation; providing for written agreement to participate in the court; setting forth procedure to participate in court; allowing for

mental health and drug treatment services for participants; providing for sanctions for violation of provisions of the court; setting forth incentives for successful participation; and setting out disposition on successful completion.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 40), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bills 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, and 189**, State Tax Department rule relating to exchange of information agreements between State Tax Division and certain state agencies.

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

**Com. Sub. for Senate Bill 187** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-7-1, §64-7-2, and §64-7-3 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies under the Department of Tax and Revenue to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of



the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs, and the Office of the Governor; authorizing the State Tax Department to promulgate a legislative rule relating to payment of taxes by electronic funds transfer; authorizing the State Tax Department to promulgate a legislative rule relating to aircraft operated under a fractional ownership program; authorizing the State Tax Department to promulgate a legislative rule relating to citizen tax credit for property taxes paid; authorizing the State Tax Department to promulgate a legislative rule relating to administration of tax on purchases of wine and liquor inside and outside of municipalities; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between Tax Division and Division of Environmental Protection; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Division and the Alcohol Beverage Control Administration; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information pursuant to written agreement; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Department and the West Virginia Lottery; authorizing the State Tax Department to promulgate a legislative rule relating to exchange of information agreement between the State Tax Department and the Office of the State Fire Marshal; authorizing the Lottery Commission to promulgate a legislative rule relating to West Virginia Lottery sports wagering rule; and authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Prezioso, Beach, Blair, Clements, Ihlenfeld, Maroney, Smith, Stollings, Sypolt, Takubo, Trump, Hamilton, Jeffries, Hardesty, Baldwin, and Romano:**

**Senate Bill 440**—A Bill to amend and reenact §18-16-2 of the Code of West Virginia, 1931, as amended, relating to the Antihazing Law; and modifying the definition of “hazing” to address any type of organization whose members include students at any public or private institution of higher education.

Referred to the Committee on the Judiciary.

**By Senators Prezioso, Beach, Blair, Clements, Ihlenfeld, Maroney, Smith, Stollings, Sypolt, Takubo, Jeffries, Trump, and Weld:**

**Senate Bill 441**—A Bill to amend and reenact §18B-4-5 of the Code of West Virginia, 1931, as amended, relating to campus police officers of state institutions of higher education; and allowing governing boards of state institutions of higher education to appoint all qualified individuals to serve as campus police officers.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 442**—A Bill supplementing and amending by decreasing an existing appropriation and adding a new appropriation of federal funds out of the Treasury to the Department of Revenue – Insurance Commissioner, fund 8883, fiscal year 2019, organization 0704, by supplementing, amending, decreasing, and adding the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 443**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Health and Human Resources, Division of Health – Community Mental Health Services, fund 8794, fiscal year 2019, organization 0506, to the Department of Health and Human Resources, Division of Human Services – Energy Assistance, fund 8755, fiscal year 2019, organization 0511, and to the Department of Health and Human Resources, Division of Human Services – Child Care and Development, fund 8817, fiscal year 2019, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 444**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund, fund 5163, fiscal year 2019, organization 0506, and to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 445**—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-2 and §18A-4-8a of said code, all relating to increasing annual salaries of West Virginia State Police, public school teachers, and school service personnel.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 446**—A Bill supplementing and amending by increasing existing items of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Veterans' Assistance, Department of Veterans' Assistance, fund 0456, fiscal year 2019, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senator Sypolt:**

**Senate Bill 447**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-27-313, relating to staying civil actions resulting from domestic violence for 60 days from the date of entry of a final domestic violence protective order.

Referred to the Committee on the Judiciary.

**By Senators Maynard and Hamilton:**

**Senate Bill 448**—A Bill to amend and reenact §20-2-27 of the Code of West Virginia, 1931, as amended, relating to hunting licenses; and exempting the list of names, addresses, and contact information for license holders from public disclosure with exceptions.

Referred to the Committee on Government Organization.

**By Senators Weld and Baldwin:**

**Senate Bill 449**—A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-10-8 of said code, all relating to providing for the nonpartisan elections of county prosecuting attorneys; requiring that nonpartisan elections of prosecuting attorneys commence in 2020; and providing that after said date, appointments to fill vacancies in office shall be nonpartisan.

Referred to the Committee on the Judiciary.

**By Senators Weld, Stollings, Jeffries, Tarr, Prezioso, Hamilton, Baldwin, Maroney, Beach, and Romano:**

**Senate Bill 450**—A Bill to amend and reenact §17A-10-8 of the Code of West Virginia, 1931, as amended, relating to exempting recipients of the distinguished Purple Heart medal from payment of the vehicle registration fee for West Virginia residents.

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

Senators Maynard, Stollings, and Swope offered the following resolution:

**Senate Concurrent Resolution 18**—Requesting the Division of Highways name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, in Wayne County, the “Curtis ‘Pap’ and Mille ‘Mammie’ Asbury Bridge”.

Whereas, Curtis Asbury was born on September 24, 1917, in Wayne, West Virginia, and his devoted wife Millie Ferguson was born on April 24, 1924. They were married in 1939; and

Whereas, Curtis and Millie Asbury established, owned and operated Asbury’s Grocery, located at the entrance to Cabwaylingo Park Road for 52 years. The grocery store became a vital resource for community members. For five decades, the store not only provided necessary food and other goods but was also a meeting place for community members to gather and discuss everything from politics to family life. The bus stop was outside, and when the school children would go inside the store they would be met with a smile, a hug, and a piece of fruit or candy; and

Whereas, Almost every person in the community of Dunlow, West Virginia, has been touched by Curtis and Millie’s kindness and generosity. The love they both had for their community was displayed by their hardworking, gentle, and giving spirits. They were devoted to making their small community a better place to live by always extending a helping hand, providing jobs, caring for

the elderly, and encouraging and guiding the youth. They helped develop and organize their area by creating local churches, directing Sunday school classes, and working to fulfill the needs of the entire community. They treated everyone as their own family and were lovingly referred to as everyone's "Mammie" and "Pap"; and

Whereas, It is fitting that an enduring memorial be established to commemorate Curtis and Millie Asbury and their contributions to their community and our state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, in Wayne County, the "Curtis 'Pap' and Mille 'Mammie' Asbury 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 "Curtis 'Pap' and Mille 'Mammie' Asbury 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 Rucker, Hamilton, Stollings, Maynard, Swope, Prezioso, Baldwin, Maroney, and Beach offered the following resolution:

**Senate Resolution 22**—Designating January 28, 2019, as Higher Education Day at the Legislature.

Whereas, The foundation of any great society's success is the degree to which its citizens are educated; and

Whereas, The State of West Virginia is committed to supporting higher education for all of its citizens; and

Whereas, The West Virginia Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education's West Virginia's Climb campaign seeks to increase the state's educational attainment rate to 60 percent by the year 2030; and

Whereas, West Virginia's institutions of higher education open the doors of opportunity to West Virginia's citizens; and

Whereas, Higher education institutions contribute to the economic vitality of the state while enriching the culture of the communities and regions they serve, as well as help students achieve their educational and career goals; and

Whereas, Higher education institutions in West Virginia generate \$2.7 billion in economic impact for the state; and

Whereas, West Virginia's institutions of higher education advance the development of technology, partner with business and industry in West Virginia, conduct ground-breaking research, and improve lives through advanced health care; and

Whereas, Through the services of outstanding faculty, staff, administration, and leadership, West Virginia's institutions of higher education carry out student-centered missions for the betterment of the entire state of West Virginia; and

Whereas, West Virginia's devotion to meeting its citizens' needs for higher education is evident, in part, by the West Virginia Higher Education Grant Program; and

Whereas, The year 2019 marks the 50th anniversary of the West Virginia Higher Education Grant Program; and

Whereas, In the 50 years since it was established, the West Virginia Higher Education Grant Program has given more than 443,417 West Virginia students with financial need an opportunity

at a better life through access to a high-quality, post-secondary education; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 28, 2019, as Higher Education Day at the Legislature; and, be it

*Further Resolved,* That the Senate recognizes the commitment to excellence the leaders of our colleges and universities have demonstrated; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Chancellor of the West Virginia Higher Education Policy Commission, the Chancellor of the West Virginia Council for Community and Technical College Education, the Executive Director of the West Virginia Independent Colleges and Universities, Inc., and to each of the presidents of West Virginia's public and independent colleges and universities.

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

On motion of Senator Takubo, at 11:28 a.m., the Senate recessed to present Senate Resolution 22.

The Senate reconvened at 11:34 a.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 451** (originating in the Committee on Education)—A Bill repeal §18-5-16a of the Code of the West Virginia, 1931, as amended; to repeal §18C-4A-1, §18C-4A-2, and §18A-4A-3 of said code; to amend and reenact §5-16-2, §5-16-13, and §5-16-22



of said code; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated section §18-1-5; to amend and reenact §18-5-16, §18-5-18a, §18-5-18b, §18-5-32, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-45a; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11, §18-5G-12, §18-5G-13, §18-5G-14, and §18-5G-15; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9, and §18-9A-12 of said code; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, and §18-31-9; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, §18A-4-9, and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; providing for conversion of accrued sick leave to premium cost of insurance for Teachers Retirement System members; allowing county boards of education to increase their regular levy rates to the statutory maximum; declaring nonseverability of act; providing that central office administrators, supervisors, and directors serve at the will and pleasure of the superintendent; authorizing the establishment of charter schools beginning in 2019-2020; establishing charter school employee permissive participation in the Public Employees Insurance Act; establishing charter school employee eligibility for the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; establishing requirements for

charter school contracts and the process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; establishing funding for charter school enrollment; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; creating prohibitions; establishing reporting requirements; providing that appropriation will be disbursed to the public charter schools to serve needs of exceptional children; providing for public charter school coverage by the Board of Risk and Insurance Management; creating personal income tax credits for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs; addressing the transfer and enrollment policies for students in public schools; clarifying the employment term for school employees and the applicability to time lost due to a work stoppage or strike; including teacher recommendations in the considerations for student promotion; adjusting the maximum teacher-pupil ratio; expanding social and emotional support services provided to students; clarifying the job duties and responsibilities of school counselors; modifying the contact requirements for a student's guardians upon accrual of unexcused absences; requiring meaningful contact be made with guardians after a student has accrued three and five unexcused absences; specifying that a principal may make meaningful contact with guardians after a student has accrued three unexcused absences; expanding the definition of "professional student support personnel"; increasing the basic foundation allowance for professional student support personnel; increasing the county allowance for current expenses to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; providing written notice of state Board of Risk and Insurance Management insurance coverage to county board of education insureds; providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program only; enhancing counties' ability to provide additional compensation to teachers; permitting a county board of education to base its employment decisions, transfers, reassignments, reducing the number of professional personnel, reductions in classroom

teaching positions, and reductions in the workforce on an individual's qualifications; setting forth the factors to be considered when determining an individual's qualifications; clarifying payment to teachers and withholdings; enacting an Educational Savings Account Program; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA); establishing ESA application requirements; defining responsibilities of the Treasurer; establishing a Parent Review Committee; providing eligibility requirements applicable to education service providers; providing for the responsibilities of resident school districts; addressing legal proceedings; setting local share maximum at 2015-2016 level; increasing salaries for teachers; providing additional pay for certain teachers providing math instruction; increasing salaries for service personnel; providing for accrual of personal leave at the end of each pay period; modifying certain student financial aid resources available to students pursuing public school teaching careers; abolishing the Underwood-Smith Teacher Loan Assistance Program; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; modifying program purpose to target certain academic disciplines and emphasize the academic distinction of award recipients; modifying award eligibility, renewal, and service agreement criteria to reflect modified program purpose; requiring certain mentoring services be provided to award recipients; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award and limiting tuition and fee charges for program recipients; and requiring annual written notice of BRIM insurance coverages by county boards to employee insureds.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Takubo requested unanimous consent that the bill (S. B. 451) contained in the foregoing report from the Committee on Education be referred to the Committee of the Whole.

Which consent was not granted, Senator Prezioso objecting.

Senator Takubo then moved that the bill (S. B. 451) contained in the foregoing report from the Committee on Education be referred to the Committee of the Whole.

Following extended discussion and points of inquiry to the President, with resultant responses thereto,

The question being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Senator Woelfel arose to a point of order stating Senate Bill 451 violated the provisions of section thirty, article VI of the Constitution of West Virginia, which states in part, "No act hereafter passed shall embrace more than one object . . . ."

The President stated neither the Senate nor the Legislature were the proper venues to address the question of constitutionality, therefore, the point of order was ruled not well taken.

Senator Woelfel then arose to a point of order stating the title of Senate Bill 451 insufficiently identifies the different topics in the bill.

The President stated that was a constitutional issue that must be challenged in the proper venue, therefore, the point of order was ruled not well taken.

Senator Woelfel then appealed the ruling of the Chair.

The question being "Shall the Chair be sustained?"

On this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker,

Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

Absent: Boley—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 16**, US Army SP4 Wilbur Allen Smith 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 17**, Sardis District Veterans 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 Senate Bill 55**, Relating to driving privileges and requirements for persons under 18.

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 55 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 55) 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 101,** Equalizing penalties for intimidating and retaliating against certain public officers and other 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: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Romano and Unger—2.

Absent: Boley—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. 101) 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 124**, Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

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: Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Hamilton, Maynard, and Tarr—4.

Absent: Boley—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. 124) 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 233**, Relating to age requirements for deputy sheriff.

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

Pending discussion,

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

**Eng. Com. Sub. for Senate Bill 241**, Permitting county court clerks scan certain documents in electronic form.

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: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 241) 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 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax 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: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 268) passed with its title.

Senator Takubo moved that the bill take effect from passage.



On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 268) 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 269**, Updating terms used in WV Personal Income Tax 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: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 269) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 269) takes effect from passage.

*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.

**Senate Bill 63**, Relating to partial filling of prescriptions.

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

**Com. Sub. for Senate Bill 236**, Providing notice of eligibility to persons to vote after completion of punishment or pardon.

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

**Com. Sub. for Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

At the request of Senator Trump, 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.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 4**, Relating generally to Municipal Home Rule Program.

**Com. Sub. for Senate Bill 72**, Creating Sexual Assault Victims' Bill of Rights.

**Com. Sub. for Senate Bill 102**, Relating generally to powers and authority of courthouse security officers.

**Senate Bill 149**, Exempting certain veterans from concealed weapons license fees.

**Com. Sub. for Senate Bill 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

**Com. Sub. for Senate Bill 243**, Requiring racetrack participate in WV Thoroughbred Development Fund.

**Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

**Com. Sub. for Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

**Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

**Com. Sub. for Senate Bill 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

And,

**Eng. House Bill 2351**, Relating to regulating prior authorizations.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Trump, Woelfel, Prezioso, Roberts, and Smith.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Swope, the name of Senator Swope was removed as a sponsor of **Senate Bill 359** (*Creating Youth Mental Health Protection Act*).

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Boley.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:30 p.m., the Senate adjourned until tomorrow, Tuesday, January 29, 2019, at 11 a.m.

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## TUESDAY, JANUARY 29, 2019

The Senate met at 11:13 a.m.

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

Prayer was offered by Pastor Bo Burgess, Jordan Baptist Church, Gallipolis Ferry, 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, January 28, 2019,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2005**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6L-1, §11-6L-2, §11-6L-3, §11-6L-4, and §11-6L-5, to amend said code by adding thereto three new sections, designated §31G-4-4, §31G-4-5, and §31G-4-6, and to amend said code 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 wireless telecommunication technology facilities generally; providing a special method for valuation of certain wireless technology property for property taxes; defining terms; providing mandated salvage valuation of certain wireless businesses' property; specifying method for valuation of certain property; requiring initial determination and specifying procedure for protest and appeal of determination; establishing Public Service Commission jurisdiction over make-ready pole access within the state; relating to the determination of the feasibility of electric utilities constructing and operating middle-mile broadband internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in the determination of the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband internet projects within a certain period of time; requiring certain reports be submitted to certain officials and committees; and providing for severability; 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 for certain permit requirements; authorizing and limiting access to collocation sites, structures and equipment; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.

Referred to the Committee on Government Organization; and then 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 2036**—A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to permitting vehicles displaying disabled veterans special registration plates to park in places where persons with mobility impairments may park.

Referred to the Committee on Military.

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 2209**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-24-8, relating to allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

Referred to the Committee on Military.

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 2547**—A Bill to amend and reenact §3-9-6 of the Code of West Virginia, 1931, as amended, relating to the election prohibition zone; amending the election prohibition zone from 300 feet to 100 feet.

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 2600**—A Bill to amend and reenact §3-4A-15 of the Code West Virginia, 1931, as amended, relating to publication of facsimile sample ballots.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 30**, Eliminating tax on annuity considerations collected by life insurer.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Banking and Insurance pending.

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 103**, Relating generally to Public Defender Services.

And,

**Com. Sub. for Senate Bill 264**, Requiring courts to order restitution to crime victims where economically practicable.

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

**Senate Bill 266**, Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

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

**Com. Sub. for Senate Bill 266** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §23-5-15 of said code; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, and §51-11-13; and to amend



and reenact §58-5-1 of said code, all relating generally to the West Virginia Appellate Reorganization Act of 2019; creating an Intermediate Court of Appeals in West Virginia; providing that the Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies in the Intermediate Court of Appeals; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals and that petitioners have a right to review in such court; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; providing that the Workers' Compensation Board of Review may continue to certify questions of law directly to the Supreme Court of Appeals; requiring that appeal of contested cases under State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; placing judges of Intermediate Court of Appeals under the judicial retirement system; establishing the Intermediate Court of Appeals by a certain date; providing a short title; providing legislative findings; defining terms; requiring a three-judge panel for proceedings; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; specifically excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing a process for initial appointment of judges to the Intermediate Court of Appeals to staggered judicial terms, and to 10-year terms on the expiration of terms thereafter; providing for the filling of vacancies in unexpired judicial terms by appointment; providing that the Governor's appointments are subject to Senate confirmation; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during judicial term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; requiring the Chief Judge of the Intermediate Court of Appeals to publish and submit certain reports to the Legislature and Supreme Court of Appeals regarding pending cases; authorizing filing fees; providing for deposit of filing fees in a special revenue

account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing that certain appeals are reviewed and a written decision issued by either the Intermediate Court of Appeals or the Supreme Court of Appeals, as a matter of right; removing obsolete language from the code; and making technical corrections to the code.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 266), under the original double committee reference, was then referred to the Committee on Finance.

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 Bill 331**, Using leashed dogs to track mortally wounded deer or bear.

And,

**Senate Bill 332**, Relating to Class Q special hunting permit for disabled persons.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 452**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Military Affairs and Public Safety, Division of Justice and Community Services – Second Chance Driver’s License Program Account, fund 6810, fiscal year 2019, organization 0620, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Azinger and Cline:**

**Senate Bill 453**—A Bill to amend and reenact §31A-2-4 of the Code of West Virginia, 1931, as amended, relating to background checks of certain financial institutions; allowing commissioner to accept alternate report forms in limited circumstances for certain non-United States based principals or owners; and making technical corrections.

Referred to the Committee on Banking and Insurance.

**By Senators Maynard, Roberts, Sypolt, and Cline:**

**Senate Bill 454**—A Bill to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18B-1-12; and to amend and reenact §21-1A-3 of said code, all relating to exemptions from mandated immunizations.

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

**By Senator Blair:**

**Senate Bill 455**—A Bill to amend and reenact §11-12-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-8b of said code, all relating generally to contractors; defining certain terms; clarifying business registration requirements in case of both nonresident contractors and nonresident subcontractors; clarifying bonding requirements in case of both nonresident contractors and nonresident subcontractors for purposes of consumers sales and service tax and use tax; and including municipal consumers sales and use taxes and special district excise tax within bonding specifications, as applicable.

Referred to the Committee on Finance.

**By Senator Blair:**

**Senate Bill 456**—A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to authorizing railroads and commercial watercraft to claim a refundable exemption from the variable rate component of the

motor fuel excise tax; and removing the aggregate annual exemption limitation imposed on railroads, all beginning July 1, 2019.

Referred to the Committee on Finance.

**By Senators Blair, Cline, Roberts, and Maroney:**

**Senate Bill 457**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exempting sales by not-for-profit and volunteer school support organizations for the purpose of raising funds for their schools from the consumers sales and service tax and use tax; specifying time limitations for fundraisers; and specifying the exemption applies without regard to whether the organization holds, or does not hold, an exemption under §501(c)(3) or §501(c)(4) of the Internal Revenue Code.

Referred to the Committee on Finance.

**By Senator Clements:**

**Senate Bill 458**—A Bill to amend and reenact §17C-7-1 and §17C-7-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-8-8 of said code, all relating to traffic regulations; increasing fines; permitting visible instead of audible signal when passing to the left of an overtaken vehicle; and clarifying that an appropriate signal is required when moving right or left upon a roadway.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Baldwin, Plymale, Jeffries, Beach, and Hamilton:**

**Senate Bill 459**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §60A-9A-1, §60A-9A-2, §60A-9A-3, §60A-9A-4, §60A-9A-5, and §60A-9A-6, all relating to requiring wholesale drug distributors to report certain information to the West Virginia Board of Pharmacy.

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

**By Senators Boso, Plymale, Cline, Tarr, and Maroney:**

**Senate Bill 460**—A Bill to amend the Code of West Virginia, 1931, as amended, 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 requiring standards and procedures for recognizing career technical training acquired in public schools, apprenticeship programs, and employer-sponsored training programs toward occupational testing, certification, and/or licensure; establishing purpose and intent; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor and by licensing boards and commissions; providing for creation of lists of existing apprenticeships, certifications, and other credentials that reflect existing workforce needs and for dissemination to high school students; and requiring Commissioner of Labor rule to include guidelines for collection and dissemination in manner easily accessible to both students and their parents.

Referred to the Committee on Education.

**By Senator Blair:**

**Senate Bill 461**—A Bill to amend and reenact §11-21-77 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22-15a of said code, all relating generally to lottery prizes; defining terms; extending personal income tax withholding requirements to certain lottery winnings; designating lottery winnings as source of income; specifying gross prize threshold for lottery winner anonymity election; specifying exemption from Freedom of Information Act; specifying treatment of lottery pool members; eliminating fee for anonymity option election; specifying limitations and exceptions to anonymity pursuant to lawful legal process, disclosure to local, state, or federal tax agencies, and agencies lawfully entitled to information; authorizing promulgation of rules; specifying method for determining value of gross prize; and specifying effective date.

Referred to the Committee on Finance.

**By Senators Blair and Cline:**

**Senate Bill 462**—A Bill to amend and reenact §11-15-17 of the Code of West Virginia, 1931, as amended, relating to officer liability for unremitted consumers sales and service tax.

Referred to the Committee on Finance.

**By Senator Sypolt:**

**Senate Bill 463**—A Bill to amend and reenact §44-1-29 of the Code of West Virginia, 1931, as amended, relating to authorization for a personal representative, trustee, administrator, or executor of a deceased person's estate to transfer or amend conservation or preservation easements; defining the duty of the personal representative, trustee, administrator, or executor; and establishing conditions for the exercise of the authority to transfer or amend.

Referred to the Committee on the Judiciary.

**By Senators Blair and Cline:**

**Senate Bill 464**—A Bill to amend and reenact §30-3-13 and §30-3-13a of the Code of West Virginia, 1931, as amended, all relating to modifying licensing requirements for the practice of telemedicine and surgery or podiatry; and providing exceptions, notice requirements, and criminal penalties.

Referred to the Committee on Government Organization.

**By Senators Sypolt, Clements, Hamilton, Maroney, Maynard, Smith, Swope, Tarr, Weld, Plymale, Roberts, and Cline:**

**Senate Bill 465**—A Bill to amend and reenact §23-2-1a of the Code of West Virginia, 1931, as amended, relating to exempting nonpaid volunteers at a volunteer fire department or emergency medical services organization who volunteer for the purpose of fundraising, or other administrative capacity, from workers' compensation benefits.

Referred to the Committee on Banking and Insurance.

**By Senators Maynard, Roberts, Sypolt, and Cline:**

**Senate Bill 466**—A Bill to amend and reenact §17-2A-11 of the Code of West Virginia, 1931, as amended, relating to modifying the road classifications which the Division of Highways is to use when maintaining its digital road map.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Boso, Roberts, and Cline:**

**Senate Bill 467**—A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-18 of said code; to amend and reenact §8-19-4 of said code; to amend and reenact §8-20-10 of said code; to amend and reenact §16-13-16 of said code; to amend and reenact §16-13A-9 of said code; to amend and reenact §24-1-1 of said code; and to amend and reenact §24-2-1, §24-2-2, §24-2-3, §24-2-4a, §24-2-4b, and §24-2-11 of said code, all relating to clarifying Public Service Commission jurisdiction over water and sewer utilities owned by political subdivisions; establishing uniformity in the class of publications required by municipalities and public service districts for the revision in rates; providing a time period for the filing of and resolution of complaints filed at the Public Service Commission regarding actions of municipalities; cleaning up language regarding reference to other sections of the code regarding notice requirements for municipal utilities; and regarding the time period pertaining to the filing of appeals and the resolution of the appeals for rate and construction projects decided by county commissions.

Referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 18**, Curtis “Pap” and Millie “Mammie” Asbury 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 63**, Relating to partial filling of prescriptions.

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 63 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 63) 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. Senate Bill 63**—A Bill to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating to partial filling of prescriptions; permitting partial filling of prescriptions for controlled substances listed in Schedule II under certain circumstances; setting conditions for partial filling of prescriptions for controlled substances listed in Schedule II; permitting remaining portion of prescription to be filled within 30 days of first partial filling; setting forth steps to be followed if pharmacist is unable to fill remaining portion of prescription; prohibiting further quantities from being supplied beyond 30 days in absence of new prescription; providing that remaining portions of a partially filled

prescription for controlled substances listed in Schedule II may be filled in emergency situations; and defining “emergency situation”.

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

**Eng. Senate Bill 233**, Relating to age requirements for deputy sheriff.

Having been read a third time on yesterday, Monday, January 28, 2019, and now coming up in regular order, was reported by the Clerk.

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

**Eng. Com. Sub. for Senate Bill 236**, Providing notice of eligibility to persons to vote after completion of punishment or pardon.

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: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Tarr—1.

Absent: Boley—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. 236) 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.

**Com. Sub. for Senate Bill 4**, Relating generally to Municipal Home Rule Program.

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

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

On page nine, section five-a, line one hundred seventy-two, by striking out all of subdivision (22);

And,

By renumbering the remaining subdivisions.

Following extended discussion,

The question being on the adoption of Senator Romano's amendment to the bill (Com. Sub. for S. B. 4), the same was put.

The result of the voice vote being inconclusive, Senator Romano demanded a division of the vote.

A standing vote being taken, there were 11 "yeas" and 21 "nays".

Whereupon, Senator Carmichael (Mr. President) declared Senator Romano's amendment to the bill rejected.

At the request of Senator Palumbo, and by unanimous consent, the bill (Com. Sub. for S. B. 4) was advanced to third reading with the right for further amendments to be considered on that reading.

**Com. Sub. for Senate Bill 72**, Creating Sexual Assault Victims' Bill of Rights.

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

**Com. Sub. for Senate Bill 102**, Relating generally to powers and authority of courthouse security officers.

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

**Senate Bill 149**, Exempting certain veterans from concealed weapons license fees.

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

**Com. Sub. for Senate Bill 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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

**Com. Sub. for Senate Bill 243**, Requiring racetrack participate in WV Thoroughbred Development Fund.

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

**Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

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

**Com. Sub. for Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

On motion of Senator Lindsay, 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 3. RELATIONS OF MEMBERS AND MANAGERS  
TO PERSONS DEALING WITH LIMITED LIABILITY  
COMPANY.**

**§31B-3-303. Liability of members and managers.**

(a) Except as otherwise provided in §31B-3-303(c) of this code, the organizational statute of a limited liability company, other statutes regulating the activities and operations of a limited liability company, or by express agreement of the members, the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort, or otherwise, are solely the debts, obligations, and liabilities of the company. A member or manager is not personally liable for a debt, obligation, or liability of the company solely by reason of being or acting as a member or manager. It is the intent and policy of the Legislature that for any claim against a limited liability company arising after the effective date of the reenactment of this section during the regular session of the Legislature, 2019, common law corporate “veil piercing” claims may not be used to impose personal liability on a member or manager of a limited liability company, and that the West Virginia Supreme Court of Appeals decision in *Joseph Kubican v. The Tavern, LLC*, 232 W.Va. 268, 752 S.E. 2d 299 (2013) be nullified.

(b) The failure of a limited liability company to observe the usual company formalities or requirements relating to the exercise of its company powers or management of its business is not a ground for imposing personal liability on the members or managers for liabilities of the company.

(c) All or specified members of a limited liability company are liable in their capacity as members for all or specified debts, obligations, or liabilities of the company, whether in tort, contract, or otherwise, if:

~~(1) A provision to that effect is contained in the articles of organization; and~~

~~(2) A member so liable has consented in writing to the adoption of the provision or to be bound by the provision. the limited liability company is or becomes insolvent and:~~

(1) The member, either directly or through representations made through the limited liability company, commits actual fraud which causes injury to an individual or entity.

(2) The member, either directly or through representations made through the limited liability company, is shown through acts or omissions to have committed constructive fraud, and he or she is shown to have committed or participated in one or more wrongful acts.

(3) The limited liability company participates in a conflicted exchange; or

(4) The limited liability company makes an insolvency distribution to the owner.

(d) Definitions. As used in this section:

“Conflicted exchange” means a transfer of money or other property from a limited liability company to a member of the limited liability company (or to any other organization in which the member has a material financial interest) in exchange for services, goods, or other tangible or intangible property of less than reasonable equivalent value.

“Creditor” means a person or organization to which the limited liability company is indebted based on a contract or other voluntary transaction between the limited liability company and the creditor. “Creditor” includes, for example, employees, customers, trade creditors, and lenders. The term “creditor” does not include toward claimants or governmental agency seeking to impose statutory obligations.

“Insolvency distribution” means a transfer of money or other property from a limited liability company to a member of that limited liability company (or to any other organization in which the member has a material financial interest), in respect of the

member's ownership interest, that renders the limited liability company insolvent.

"Insolvent" means, with respect to a limited liability company, that the limited liability company is unable to pay its debts in the ordinary course of business. Claims that are unusual in nature or amount, including tort claims in claims for consequential damages, are not to be considered claims in the ordinary course of business for the purposes of this section.

"Member" means any person or organization that, by reason of an ownership interest, is entitled to share in the profits of the limited liability company.

"Wrongful acts" means one or more of the following:

(1) Commingling - whether members and managers fail to keep business funds and accounts separate from funds and accounts of members, (or) whether members fail to keep their personal books and financial accounts and records separate from the accounts of the limited liability company;

(2) Siphoning of Funds - whether the manager or majority member has siphoned funds from the limited liability company in violation of the articles of organization, the operating agreement, or this article;

(3) Gross Undercapitalization - at the time of its formation, or at the time of the litigated transaction or occurrence, whether the limited liability company was grossly undercapitalized or underinsured, rendering the business unable to satisfy the reasonably anticipated debts and expenses of the limited liability company incurred in the ordinary course of business;

(4) Public Notice of the limited liability company - whether the members fail to hold the business out as a separate legal entity;

(5) The Members Usurp Power - whether the members make decisions for the limited liability company, thereby usurping the power of the managers, in direct contravention of the articles of organization and/or operating agreement;

(6) Disrespect of the Separate Legal Entity - whether the members acted in such a way as to fail to respect the separate legal existence of the limited liability company, as shown by such acts as using limited liability company credit to secure personal loans, distributing limited liability company earnings to members through nonauthorized means, members using limited liability company property as if it were their own, or other usage of the limited liability company by members for personal transactions;

(7) Improper Purpose of Formation - whether the limited liability company was organized with the purpose of avoiding contractual liabilities or circumventing regulatory statutes or common law duties.

(8) Breach of Fiduciary Relationship - whether the members' acts constituted a breach of a legal or equitable duty owed to the injured party, thereby violating a fiduciary relationship.

Following extended discussion and points of inquiry to the President, with resultant responses thereto,

The question being on the adoption of Senator Lindsay's amendment to the bill, the same was put and did not prevail.

On motion of Senator Trump, the following amendment to the bill (Com. Sub. for S. B. 258) was next reported by the Clerk:

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

**ARTICLE 3. RELATIONS OF MEMBERS AND MANAGERS  
TO PERSONS DEALING WITH LIMITED LIABILITY  
COMPANY.**

**§31B-3-303. Liability of members and managers.**

(a) Except as otherwise provided in §31B-3-303(c) of this code, the debts, obligations and liabilities of a limited liability company, whether arising in contract, tort or otherwise, are solely the debts, obligations and liabilities of the company. A member or manager is not personally liable for a debt, obligation or liability



of the company solely by reason of being or acting as a member or manager. It is the intent and policy of the Legislature that for any claim against a limited liability company arising after the effective date of the reenactment of this section during the regular session of the Legislature, 2019, common law corporate “veil piercing” claims may not be used to impose personal liability on a member or manager of a limited liability company, and the West Virginia Supreme Court of Appeals decision in *Joseph Kubican v. The Tavern, LLC*, 232 W. Va. 268, 752 S.E.2d 299 (2013) be nullified.

(b) The failure of a limited liability company to observe the usual company formalities or requirements relating to the exercise of its company powers or management of its business is not a ground for imposing personal liability on the members or managers for liabilities of the company.

(c) All or specified members of a limited liability company are liable in their capacity as members for all or specified debts, obligations or liabilities of the company if:

~~(1) A provision to that effect is contained in the articles of organization; and~~

~~(2) A member so liable has consented in writing to the adoption of the provision or to be bound by the provision.~~

(1) A provision to that effect is contained in the articles of organization, and a member so liable has consented in writing to the adoption of the provision or to be bound by the provision;

(2) The member against whom liability is asserted has personally guaranteed the liability or obligation of the limited liability company in writing;

(3) As to a tax liability of the limited liability company, the law of the state or of the United States imposes liability upon the member;

(4) The member commits actual fraud which causes injury to an individual or entity.

(d) Enterprise liability. — In circumstances where the members of a limited liability company are, in whole or in part, corporations, limited liability companies, or other entities which are not human beings, then if a jury shall determine that the liability of a limited liability company sounding in tort arose as part of the activities of a joint enterprise, those entities which are part of the joint enterprise with the limited liability company may be liable for the liability of the limited liability company which arose as part of the business operations of the joint enterprise, not as a piercing of the veil, but instead under the doctrine of joint enterprise liability.

(e) Member as tortfeasor. — Nothing in this section shall immunize or shield a member of a limited liability company, solely because he or she is a member of a limited liability company, from liability for his or her own tortious conduct that proximately causes injury to another party while the member is acting on behalf of the limited liability company. In such circumstance, the liability of a member is not through veil piercing, but rather primary, as against any tortfeasor.

(f) Clawback authority. — If a member is proved to have committed any of the following acts, then a creditor of the limited liability company whose judgment the limited liability company cannot satisfy may seek clawback from the member under this subsection: *Provided*, That the limited liability company's judgment creditor may proceed in the shoes of the limited liability company to clawback funds from the member in order to reimburse the limited liability company for either the amount of the judgment against the limited liability company or the amount transferred from the limited liability company to the member in bad faith, whichever is less. The wrongful acts which will justify clawback (but not veil piercing) are:

- (1) Conflicted exchange;
- (2) Insolvency distribution; or
- (3) Siphoning of funds.

(g) Definitions. — As used in this section:

“Conflicted exchange” means a transfer of money or other property from a limited liability company to a member of the limited liability company (or to any other organization in which the member has a material financial interest) in exchange for services, goods, or other tangible or intangible property of less than reasonable equivalent value.

“Insolvency distribution” means a transfer of money or other property from a limited liability company to a member of that limited liability company (or to any other organization in which the member has a material financial interest), in respect of the member’s ownership interest, that renders the limited liability company insolvent.

“Insolvent” means, with respect to a limited liability company, that the limited liability company is unable to pay its debts in the ordinary course of business. Claims that are unusual in nature or amount, including tort claims in claims for consequential damages, are not to be considered claims in the ordinary course of business for the purposes of this section.

“Siphoning of funds” means whether the manager or majority member has siphoned funds from the limited liability company in violation of the articles of organization, the operating agreement, or this article.

Following discussion,

At the request of Senator Trump, and by unanimous consent, Senator Trump’s amendment to the bill (Com. Sub. for S. B. 258) was amended on page two, line twenty-five, section three hundred three, subsection (c), subdivision (3), after the word “member;” by inserting the word “or”.

Following extended discussion,

The question being on the adoption of Senator Trump’s amendment to the bill, as amended, the same was put and prevailed.

The bill (Com. Sub. for S. B. 258), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

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

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

**Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

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

**Com. Sub. for Senate Bill 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

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

**Eng. House Bill 2351**, Relating to regulating prior authorizations.

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:

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.

### **§5-16-7f. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care: *Provided*, That any additional testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will required a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and

anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the

prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical



services: *Provided* That the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

#### **§33-15-4s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care: *Provided*, That any additional testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will required a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request

within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the

medical director after the peer-to- peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to

this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical services: *Provided*, That the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3dd. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care: *Provided*, That any additional testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will required a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization

requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic



transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical services: *Provided*, That the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,  
MEDICAL SERVICE CORPORATIONS, DENTAL  
SERVICE CORPORATIONS, AND HEALTH SERVICE  
CORPORATIONS.**

**§33-24-7s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care; *Provided*, That any additional testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will required a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States

Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to

accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if

the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical services: *Provided*, That the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8p. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care: *Provided*, That any additional testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will required a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version

201310 or the most recent standard adopted by the United States Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through

electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the



procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical services: *Provided*, That the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) Episode of Care means a specific medical problem, condition, or specific illness being managed across a continuum of care and includes tests and procedures initially requested, excluding out of network care: *Provided*, That any additional

testing or procedures unrelated to the specific medical problem, condition, or specific illness being managed will require a separate prior authorization.

(2) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services (HHS). Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by HHS;

(3) Prior Authorization means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurers are required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on their webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurers require plan members to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly

indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurers are currently accepting electronic prior authorization requests, they shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurers shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests a peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) Any inpatient prescription written at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(k) If the approval of a prior authorization requires a medication substitution, the substituted medication must be of an equivalent medication class.

(l) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption will be reviewed prior

to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(m) The health insurers must accept and respond to prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurers shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(n) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(o) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the department to provide medical services: *Provided That* the requirements in this subsection shall be expressly memorialized in such contract.

(p) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

On motion of Senator Maroney, the following amendments to the Health and Human Resources committee amendment to the bill (Eng. H. B. 2351) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section seven-f, subsection (a), subdivision (1), after the words "or procedures" by inserting the words "related or";

On page one, section seven-f, subsection (a), subdivision (1), by striking out the word "required" and inserting in lieu thereof the word "require";

On page two, section seven-f, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page three, section seven-f, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page four, section seven-f, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page four, section seven-f, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

On page five, section seven-f, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”;

On page five, section four-s, subsection (a), subdivision (1), after the words “or procedures” by inserting the words “related or”;

On page five, section four-s, subsection (a), subdivision (1), by striking out the word “required” and inserting in lieu thereof the word “require”;

On page six, section four-s, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page seven, section four-s, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page eight, section four-s, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page eight, section four-s, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

On page eight, section four-s, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”.

On page nine, section three-dd, subsection (a), subdivision (1), after the words “or procedures” by inserting the words “related or”;

On page nine, section three-dd, subsection (a), subdivision (1), by striking out the word “required” and inserting in lieu thereof the word “require”;

On page ten, section three-dd, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page eleven, section three-dd, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page eleven, section three-dd, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page twelve, section three-dd, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

On page twelve, section three-dd, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”;

On page thirteen, section seven-s, subsection (a), subdivision (1), after the words “or procedures” by inserting the words “related or”;

On page thirteen, section seven-s, subsection (a), subdivision (1), by striking out the word “required” and inserting in lieu thereof the word “require”;

On page fourteen, section seven-s, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page fifteen, section seven-s, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page fifteen, section seven-s, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page sixteen, section seven-s, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

On page sixteen, section seven-s, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”;

On page seventeen, section eight-p, subsection (a), subdivision (1), after the words “or procedures” by inserting the words “related or”;

On page seventeen, section eight-p, subsection (a), subdivision (1), by striking out the word “required” and inserting in lieu thereof the word “require”;

On page eighteen, section eight-p, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page nineteen, section eight-p, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page nineteen, section eight-p, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page twenty, section eight-p, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

On page twenty, section eight-p, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”;



On page twenty-one, section eight-s, subsection (a), subdivision (1), after the words “or procedures” by inserting the words “related or”;

On page twenty-one, section eight-s, subsection (a), subdivision (1), by striking out the word “required” and inserting in lieu thereof the word “require”;

On page twenty-two, section eight-s, subsection (c), by striking out the word “they” and inserting in lieu thereof the words “the health insurers”;

On page twenty-two, section eight-s, subsection (e), after the words “two business days” by inserting the words “from the time on the electronic receipt of the prior authorization request”;

On page twenty-three, section eight-s, subsection (j), by striking out the words “Any inpatient prescription written” and inserting in lieu thereof the words “Any prescription written for an inpatient”;

On page twenty-four, section eight-s, subsection (m), after the words “must accept and respond to” by inserting the words “electronically submitted”;

And;

On page twenty-four, section eight-s, subsection (o), by striking out the word “Services” and inserting in lieu thereof the word “Resources”.

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. H. B. 2351), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 187**, Authorizing Department of Revenue to promulgate legislative rules.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Stollings, Rucker, Hardesty, and Maroney.

Thereafter, at the request of Senator Romano, and by unanimous consent, the remarks by Senators Stollings, Hardesty, and Maroney were ordered printed in the Appendix to the Journal.

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

Remarks were made by Senator Maynard.

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Boley.

Pending announcement of meetings of standing committees of the Senate, including a meeting of the Committee of the Whole,

On motion of Senator Takubo, at 1:12 p.m., the Senate adjourned until tomorrow, Wednesday, January 30, 2019, at 9:30 a.m.

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## WEDNESDAY, JANUARY 30, 2019

The Senate met at 9:37 a.m.

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

Prayer was offered by the Honorable Glenn D. Jeffries, a senator from the eighth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Tuesday, January 29, 2019,

At the request of Senator Azinger, 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, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 17**, Relating to probation eligibility.

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

**Eng. Senate Bill 119**, Specifying documents not subject to discovery in certain proceedings.

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 2083**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-1c, relating to facilitating a released inmate's reintegration into society, by requiring the Division of Corrections and Rehabilitation to provide an identification card for eligible released inmates who do not have a West Virginia identification card or driver's license; permitting the Division of Motor Vehicles to make visits to Division of Corrections and Rehabilitation's facilities to assist inmates with applications to obtain a West Virginia identification card; providing that the Division of Corrections and Rehabilitation be temporary in nature; providing that the identification card issued by the Division of Corrections and Rehabilitation have the same force and effect as a standard/Not For Federal Use identification card; providing that the Division of Motor Vehicles shall accept an unexpired Division

of Corrections and Rehabilitation identification card as proof of identity and proof of residency; requiring the Division of Corrections and Rehabilitation and the Division of Motor Vehicles to work together to develop a policy to verify social security numbers of released inmates; and requiring a former inmate to pay all fees charged by the Division of Motor Vehicles related to the issuance of an identification card.

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 from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2191**—A Bill to amend and reenact §29-22B-321, §29-22B-503, §29-22B-504, §29-22B-903, and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; modifying the definition of “operator;” allowing operators to be retailers at up to 10 licensed locations with certain exceptions; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; and fixing the state’s share of gross terminal income at 50 percent on July 1, 2019.

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 2514**—A Bill to amend and reenact §47-26-2 of the Code of West Virginia, 1931, as amended, relating to permitting pawn brokers to disclose whether any specific property has been sold or pledged.

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 2602**—A Bill to amend and reenact §61-3-18 of the Code of West Virginia, 1931, as amended, relating to receiving or transferring stolen property; and providing that to knowingly possess stolen goods is an element of the offense of receiving or transferring stolen property.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

**Senate Bill 52**, Entitling natural resource producers to economic opportunity tax credit.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 90**, Transferring Safety and Treatment Program from DHHR to DMV.

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

**Com. Sub. for Senate Bill 90** (originating in the Committee on Government Organization)—A Bill to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, all relating to the Safety and Treatment Program; transferring the program from the Department of Health and Human Resources to the Division of Motor Vehicles; adding grievance and appellate procedures and judicial review for individuals participating in the Safety and Treatment Program; authorizing the Commissioner of the Division of Motor Vehicles to promulgate rules to add such procedures and judicial review for participants; and amending internal code references.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

The bill (Com. Sub. for S. B. 90), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 100**, Increasing court fees to fund law-enforcement standards training and expenses.

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

**Com. Sub. for Senate Bill 100** (originating in the Committee on Finance)—A Bill to amend and reenact §30-29-4 of the Code of West Virginia, 1931, as amended, relating to increasing a fee added to the usual court costs of all criminal proceedings; and increasing fee added to the amount of any cash or property bond posted for

violation of any criminal law, the proceeds of which are dedicated to the funding of training, professional development, and certification programs for law-enforcement officers and to paying the expenses of the Law-Enforcement Professional Standards Subcommittee.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Clements, 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 Bill 105**, Creating enhanced penalty for certain aggravated traffic offenses.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

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

**Com. Sub. for Senate Bill 323** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e; and to amend and reenact §19-12A-6a of said code, all relating to establishing and funding a special revenue fund to be known as the Department of Agriculture Capital Improvements Fund; creating the fund; providing for administration by Department of Agriculture; identifying sources of moneys for said fund; identifying expenditures that may be made from said fund; providing for funds to remain at end of each fiscal year; eliminating certain deposits in the General Revenue Fund; permitting deposits into certain funds; and making technical corrections.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

The bill (Com. Sub. for S. B. 323), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 324**, Relating to Commissioner of Agriculture employees.



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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 357**, Relating generally to Division of Administrative Services.

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

**Com. Sub. for Senate Bill 357** (originating in the Committee on Government Organization)—A Bill to repeal §15-9A-1, §15-9A-2, §15-9A-3, and §15-9A-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §15A-2-1 and §15A-2-3 of said code; and to amend said code by adding thereto two new sections, designated §15A-2-4 and §15A-2-5, all relating to the Division of Administrative Services; designating division as staffing agency for certain agencies; providing that division perform executive and administrative support services for certain agencies; designating the division as the state administrative agency responsible for criminal justice and juvenile justice systems; providing exception; providing that code references to the Division of Justice and Community Services are to be construed as references to Division of Administrative Services; transferring employees of Division of Justice and Community Services to Division of Administrative Services; enumerating duties of director of division; requiring legislative rulemaking; and providing for posting of human trafficking assistance notices.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 358**, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

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

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

**Senate Bill 361**, Relating to Public Defender Services.

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

**Com. Sub. for Senate Bill 361** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-21-6 of the Code of West Virginia, 1931, as amended, relating to Public Defender Services; authorizing the agency's executive director to establish and operate a habeas division; providing that the executive director or his or her designee shall be the director of the division to represent qualified persons in habeas corpus matters; providing for the representation of eligible clients upon appointment by the circuit courts or the Supreme Court of Appeals;

providing for limitations on appointments for conflicts of interest or an excessive caseload; authorizing the executive director to employ attorneys and support staff to perform the duties of the division; and requiring maintenance of client records for record-keeping purposes only.

**Senate Bill 369**, Relating to generic drug products.

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

**Com. Sub. for Senate Bill 369** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating generally to generic drug products; providing definitions; providing that when a pharmacist substitutes a drug the patient shall receive the savings which shall be equal to the difference in acquisition cost of the product prescribed and the acquisition cost of the substituted product; providing an exception for covered individuals; and clarifying that the West Virginia Board of Pharmacy has primary responsibility for enforcement.

And,

**Senate Bill 373**, Relating to financial responsibility of inmates.

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

**Com. Sub. for Senate Bill 373** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates generally; and authorizing the commissioner of corrections to deduct money from civil judgments and settlements to pay court-ordered obligations prior to depositing such moneys in the inmate's account.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 377**, Relating to minimum wage and maximum hour standards.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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 Bill 389**, Allowing developmentally disabled person purchase base hunting license.

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

**Com. Sub. for Senate Bill 389** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that said developmentally disabled person possessing the base hunting

license may hunt when accompanied and directly supervised by a person 18 years of age or older; and providing for criminal penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration  
**Senate Bill 398**, Relating to compensation for senior judges.

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

**Com. Sub. for Senate Bill 398** (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 generally to compensation for judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; setting forth legislative findings; limiting the per diem rate of compensation that may be paid to senior judges and justices for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior judge or justice in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such judge or justice; requiring that administrative orders regarding extended assignment of a

senior judge or justice be submitted to the State Auditor and the State Treasurer; providing that senior judges and justices may be reimbursed for actual and necessary expenses incurred in the performance of their duties; and requiring the State Treasurer to petition the West Virginia Supreme Court of Appeals for a writ of prohibition prohibiting the State Auditor from issuing warrants to authorize payment of compensation to senior judges and justices above statutory limitation on daily rate of per diem compensation.

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

Respectfully submitted,

Charles S. Trump IV,

*Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

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 399**, Relating to compensation for senior magistrates.

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

Respectfully submitted,

Charles S. Trump IV,

*Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill 450**, Exempting recipients of Purple Heart medal from paying vehicle registration fee.

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

**Com. Sub. for Senate Bill 450** (originating in the Committee on Military)—A Bill to amend and reenact §17A-10-8 of the Code of West Virginia, 1931, as amended, relating to exempting recipients of the distinguished Purple Heart medal, the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal from payment of the vehicle registration fee for West Virginia residents.

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

Respectfully submitted,

Ryan W. Weld,  
*Chair.*

The bill (Com. Sub. for S. B. 450), under the original double committee reference, was then referred to the Committee on Finance.

Senator Clements, 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 12**, US Army CPL Lee Roy Young Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,  
*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 2462**, Issuing a certificate to correctional employees to carry firearms.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills and joint resolutions were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senator Sypolt:**

**Senate Bill 468**—A Bill to amend and reenact §18A-5-2 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that schools be closed on election days.



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

**By Senator Maynard:**

**Senate Bill 469**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-30-27, relating to requiring the Secretary of the Department of Environmental Protection to prepare guidelines for small gas stations that have small volume aboveground storage tanks; and requiring rulemaking.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Maroney, Stollings, and Tarr:**

**Senate Bill 470**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7B-9e, relating to providing for the periodic payment of verdict awards under the Medical Professional Liability Act; computing those periodic payments; appropriate forms of security necessary to satisfy the periodic payment order; settlements; and assigning periodic payments.

Referred to the Committee on the Judiciary.

**By Senator Sypolt (By Request):**

**Senate Bill 471**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, and §19-37-3, all relating to raw milk; creating the West Virginia Farm Fresh Raw Milk Act; exempting certain sales from licensure and certification; providing definitions; requiring the use of best sanitary milking and milk-handling procedures; empowering the Department of Agriculture to conduct inspections and administer the program; providing requirements for sales; and providing immunity to producers when a consumer illness results from improper handling by customers.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Sypolt and Baldwin:**

**Senate Bill 472**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to

exempting retirement income of members of certain uniformed services from state income tax.

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

**By Senators Sypolt and Cline:**

**Senate Bill 473**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-5A-1, relating to creating the Taxation with Representation Act; and providing for nonresidents of a municipality who work in that municipality and who pay user fees pursuant to a municipal ordinance may vote in municipal elections.

Referred to the Committee on the Judiciary.

**By Senator Azinger:**

**Senate Bill 474**—A Bill to repeal §48-1-210 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto four new sections, designated §48-1-239a, §48-1-239b, §48-1-239c, and §48-1-239d; to amend and reenact §48-9-102, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-403, and §48-9-601 of said code; and to amend said code by adding thereto a new section, designated §48-9-204a, all relating to establishing that shared legal and physical custody of a child in cases of divorce is presumed to be in the best interests of the child.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Cline, and Facemire:**

**Senate Bill 475**—A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended, relating to permitting persons who are 21 years of age or older to operate or be a passenger on a motorcycle without a helmet if they have held a license valid for the operation of a motorcycle for a minimum of two years; and making a technical correction.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 476**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1-1b, relating to training of State Tax Division employees.

Referred to the Committee on Finance.

**By Senator Blair:**

**Senate Bill 477**—A Bill to amend and reenact §11-15A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15A-6b, all relating generally to collection of use tax; defining terms; requiring collection of use tax by marketplace facilitators and referrers satisfying certain economic nexus requirements; and specifying internal effective date.

Referred to the Committee on Finance.

**By Senator Cline:**

**Senate Bill 478**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Military Affairs and Public Safety, Fire Commission, fund 0436, fiscal year 2019, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Cline, Baldwin, and Woelfel:**

**Senate Bill 479**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-4-11, relating to requiring each state institution of higher education, on or before a certain date, to adopt and submit to the West Virginia Higher Education Policy Commission a written sexual assault policy that includes certain due process protections in disciplinary proceedings; requiring disciplinary proceedings provisions to include a description of the rights for certain students and to include certain provisions; requiring the disciplinary proceedings provisions to require an institution of higher education to provide certain students

with a certain notice, to use a certain standard of proof in certain disciplinary proceedings, to prohibit the use of mediation to resolve certain allegations except under certain circumstances, to prohibit a certain adjudicating official or body from considering certain types of evidence except in certain circumstances, to authorize counsel to be provided to certain students under certain circumstances, to require the institution to pay certain costs and fees except under certain circumstances; specifying that the institution is not required to pay a student's attorney's fees for representation in a criminal or civil matter; and relating to sexual assault and disciplinary proceedings provisions at institutions of higher education.

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

**By Senator Trump:**

**Senate Bill 480**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-2-19a; and to amend and reenact section §44-3A-24 of said code, all relating to administration of estates; requiring reports by fiduciary commissioners of unprogressed estates; allowing the county commission to close an estate administratively; providing an appeal procedure; and providing that personal representatives are liable for failure to all persons with an interest in the assets of such an estate.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 481**—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating to Judicial Vacancy Advisory Commission; and altering the in-state residency requirements for members of the commission so that no more than two of its appointed members are residents of the same state senatorial district.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 482**—A Bill to amend and reenact §42-1-1 of the Code of West Virginia, 1931, as amended; and amending said code

by adding thereto a new section, designated §42-1-11, all relating to barring a parent from inheriting from a child in certain instances.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 483**—A Bill to amend and reenact §41-5-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-1-4 of said code; and to amend said code by adding thereto a new section, designated §44-1-14b, all relating to the administration of estates; and providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Baldwin, Beach, Jeffries, Stollings, Facemire, and Lindsay:**

**Senate Bill 484**—A Bill to amend and reenact §61-6-21 of the Code of West Virginia, 1931, as amended, relating to prohibiting civil rights violations based on gender identity or sexual orientation; criminal penalties; when evidence of constitutionally protected speech or associations is not admissible in criminal prosecutions; exceptions; providing for sentencing alternatives for persons convicted of violations; and designating amendments to this section as Angel's Law.

Referred to the Committee on the Judiciary.

**By Senators Smith, Sypolt, Cline, and Swope:**

**Senate Joint Resolution 10**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to exempting veterans who are 100 percent disabled from paying ad valorem real property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Joint Resolution 11**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to ad valorem property taxation; defining terms; exempting new tangible industrial machinery and equipment personal property from ad valorem property taxation; providing phased-in reduction of taxation of certain tangible industrial machinery, equipment, and inventory personal property until fully exempted; providing phased-in increases of appropriations and permanent appropriation of replacement revenues for proportional distribution to levying bodies; providing for general law; preserving tax exemptions, credits, deductions, discounts, and other tax relief benefits; establishing primacy of section; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

[CLERK'S NOTE: The designation "Senate Concurrent Resolution 19" was inadvertently omitted during the 2019 Regular Session. Senate Concurrent Resolution 18, which was introduced January 28, 2019, is followed by the introduction of Senate Concurrent Resolution 20 on January 30, 2019.]

Senators Maroney, Clements, Baldwin, Stollings, and Swope offered the following resolution:

**Senate Concurrent Resolution 20**—Requesting the Division of Highways name bridge number 26-250-31.34 (26A119), known locally as Route 250 Jefferson Avenue Extension Bridge, crossing Little Grave Creek just south of the Walmart Plaza entrance near Moundsville, West Virginia, the "U.S. Air Force SSGT Ryan David Hammond Memorial Bridge".

Whereas, Ryan Hammond was born on March 29, 1989, in Glen Dale, West Virginia, and graduated from John Marshall High School in 2007; and

Whereas, After graduating high school, Ryan Hammond proudly joined the United States Air Force in September 2007 as an F-15 Avionics Technician at Tyndall Air Force Base, Florida, and Seymour Johnson Air Force Base, North Carolina. After 6 years of service, Ryan cross-trained to a Loadmaster and arrived at Dyess Air Force Base, Texas, in March 2014 as part of the 39th Airlift Squadron; and

Whereas, SSGT Ryan David Hammond, 26, of Moundsville, West Virginia, died as a hero on Friday, October 2, 2015. Ryan was killed in action when a U. S. C-130J plane crashed while taking off from Jalalabad International Airport in Afghanistan during Operation Freedom's Sentinel; and

Whereas, Before his deployment, Ryan applied to officer training school. He was a member of the elite USAF Honor Guard. Ryan was also working toward his bachelor's degree in Technical Management at Embry-Riddle Aeronautical University. He was a member of Ebenezer United Methodist Church on Roberts Ridge, in Moundsville. Ryan lived in Abilene, Texas, with his wife, Holly, and their dog, Dug; and

Whereas, It is fitting that an enduring memorial be established to commemorate SSGT Ryan David Hammond and his sacrifice for his state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 26-250-31.34 (26A119), known locally as Route 250 Jefferson Avenue Extension Bridge, crossing Little Grave Creek just south of the Walmart Plaza entrance near Moundsville, West Virginia, the "U.S. Air Force SSGT Ryan David Hammond 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. Air Force SSGT Ryan David Hammond Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Stollings, Ihlenfeld, Facemire, Palumbo, Hardesty, Baldwin, Hamilton, Prezioso, Cline, Sypolt, and Swope offered the following resolution:

**Senate Resolution 23**—Designating January 30, 2019, as Cancer Survivorship Day at the Legislature.

Whereas, West Virginia will experience 12,440 new cases of cancer this year; and

Whereas, In 2019, 4,820 people will die from cancer in West Virginia; and

Whereas, Cancer will cost the United States economy an estimated \$216 billion in medical costs and lost productivity; and

Whereas, Lawmakers play a key role in preventing cancer by passing policies to reduce tobacco use and exposure to secondhand smoke, and increase healthy eating and active living; and

Whereas, Lawmakers can also advance policies that will increase access to life-saving screenings, improve quality of life with increased access to palliative care, fund research, and expand access to care; and

Whereas, There are 14.5 million cancer survivors alive in the United States and 107,520 cancer survivors in West Virginia because of the efforts of researchers, doctors, volunteers, and lawmakers; and

Whereas, This progress must continue through collaboration between lawmakers and citizens to end cancer as a major health issue; therefore, be it



*Resolved by the Senate:*

That the Senate hereby designates January 30, 2019, as Cancer Survivorship Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the American Cancer Society Cancer Action Network.

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

On motion of Senator Takubo, at 9:54 a.m., the Senate recessed to present Senate Resolution 23.

The Senate reconvened at 9:58 a.m. and resumed business under the sixth order.

Senators Baldwin, Facemire, Palumbo, Hamilton, Stollings, Sypolt, and Swope offered the following resolution:

**Senate Resolution 24**—Congratulating D. Frank Masters for winning the Conservation Farm of the Year Award.

Whereas, The Conservation Farm of the Year competition showcases the best examples of farms owned and operated by people who are dedicated to conservation; and

Whereas, Cooperating farms in each county are nominated by their local conservation district and go on to compete at the county, district, area, and state levels; and

Whereas, Farms are judged on several topics, such as resource management, conservation plan, best management practices, cooperator contribution, and involvement in the community; and

Whereas, D. Frank Masters, of Ronceverte, represents the Greenbrier Valley Conservation District, which consists of Greenbrier, Monroe, and Pocahontas counties; and

Whereas, For his efforts in conservation farming, D. Frank Masters was awarded the 2018 West Virginia Conservation Farm of the Year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates D. Frank Masters for winning the Conservation Farm of the Year Award; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to D. Frank Masters for his excellence in conservation farming; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to D. Frank Masters.

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

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

On motion of Senator Takubo, at 10:01 a.m., the Senate recessed to present Senate Resolution 24.

The Senate reconvened at 10:05 a.m. and, at the request of Senator Hamilton, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

**Com. Sub. for Senate Bill 4,** Relating generally to Municipal Home Rule Program.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, January 29, 2019, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, 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.

**Eng. Com. Sub. for Senate Bill 72**, Creating Sexual Assault Victims' Bill of Rights.

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 72 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 72) 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 102**, Relating generally to powers and authority of courthouse security officers.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 102) 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 149**, Exempting certain veterans from concealed weapons license fees.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 149) 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 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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

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

**Eng. Senate Bill 233**, Relating to age requirements for deputy sheriff.

Having been read a third time on Monday, January 28, 2019, and now coming up in regular order, was reported by the Clerk.

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

**Eng. Com. Sub. for Senate Bill 243**, Requiring racetrack participate in WV Thoroughbred Development 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: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Azinger—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. 243) 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 256**, Allowing certain deductions from individual personal income tax refunds.

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

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

**Eng. Com. Sub. for Senate Bill 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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 258 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sybolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

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. 258) passed with its title.

*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 Boso, and by unanimous consent, the remarks by Senators Trump, Romano, and Ihlenfeld regarding the passage of Engrossed Committee Substitute for

Senate Bill 258 were ordered printed in the Appendix to the Journal.

**Eng. Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

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

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

**Eng. Com. Sub. for Senate Bill 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

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

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

**Eng. House Bill 2351**, Relating to regulating prior authorizations.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2351) passed.

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

**Eng. House Bill 2351**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7f; to amend said code by adding thereto a new section, designated §33-15-4s; to amend said code by adding thereto a new section, designated §33-16-3dd; to amend said code by adding thereto a new section, designated §33-24-7s; to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to requiring health insurers to develop prior authorization forms and portals; adding definitions; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; establishing form requirements; providing for a provision for an incomplete submission; providing for an audit; granting enforcement powers to the Department of Health and Human Resources; setting forth peer review procedures; providing for mandatory medication provisions upon discharge; requiring an exemption for health care practitioners meeting specified criteria; requiring certain information to be included on the health insurer's web page and the form; establishing deadlines and submission format for pharmacy benefits; setting forth an effective date; providing for implementation applicability; and setting deadlines.

*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.

**Com. Sub. for Senate Bill 187**, Authorizing Department of Revenue to promulgate legislative rules.

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



**Com. Sub. for Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

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

At the request of Senator Takubo, 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.

At the request of Senator Takubo, and by unanimous consent, the following bills on first reading were considered read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 103**, Relating generally to Public Defender Services.

**Com. Sub. for Senate Bill 264**, Requiring courts to order restitution to crime victims where economically practicable.

**Senate Bill 331**, Using leashed dogs to track mortally wounded deer or bear.

And,

**Senate Bill 332**, Relating to Class Q special hunting permit for disabled persons.

On motion of Senator Takubo, at 10:50 a.m., the Senate recessed for 15 minutes.

The Senate reconvened at 11:13 a.m. and, at the request of Senator Takubo, and by unanimous consent, returned to the sixth order of business, which agenda includes the making of main motions.

Senator Takubo moved that the Senate resolve itself into the Committee of the Whole for the purpose of consideration of Senate Bill 451 (*Comprehensive education reform*).

The question being on the adoption of Senator Takubo's motion that the Senate resolve itself into the Committee of the

Whole for the purpose of consideration of Senate Bill 451, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, 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 Senator Takubo's aforestated motion had prevailed.

Senator Carmichael (Mr. President) then appointed Senator Blair to preside as Chairman of the Committee of the Whole.

Senator Blair assumed the Chair.

The Committee of the Whole having risen,

Senator Carmichael (Mr. President) took the Chair and the Senate resumed its regular session.

On motion of Senator Takubo, at 8:35 p.m., the Senate adjourned until tomorrow, Thursday, January 31, 2019, at 9 a.m.

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## THURSDAY, JANUARY 31, 2019

The Senate met at 9:17 a.m.

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

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

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Wednesday, January 30, 2019,

At the request of Senator Facemire, 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 to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, to take effect from passage, of

**Eng. Senate Bill 272**, Updating code relating to Commission on Special Investigations.

On motion of Senator Takubo, 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 272**—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; continuing the commission; clarifying composition and chairmanship of the commission and terms of members; redefining what constitutes a quorum for voting procedures of the commission; specifying contents of the commission's annual report; authorizing the employment of staff and the creation of certain staff positions;

granting power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, and tangible things; authorizing the issuance of written requests for production in lieu of subpoenas; authorizing the director to issue subpoenas on the commission's behalf; authorizing the commission to require an agency head to appear before the commission to answer for an agency's failure to appear or produce requested or subpoenaed material or other failure to comply with a commission investigation; ~~providing for the confidentiality of investigations~~; providing for executive session and confidentiality rights of witnesses; updating exemption of investigative materials from public disclosure; removing requirement for pre-approval of expenses of the commission by the Joint Committee on Government and Finance; providing procedures for the commission's retention and disposal of records; establishing new offenses of impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishing criminal penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; authorizing sale of surplus weapons to active and retired members of the commission's investigative staff; and updating language and terms for clarity throughout.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 272) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 272) 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2407**—A Bill to repeal §30-7-1a, §30-7-6a, §30-7-6b, §30-7-8a, §30-7-11a, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, and §30-7-15e of the Code of West Virginia, 1931, as amended; to repeal §30-7E-1, §30-7E-2, and §30-7E-3 of said code; to amend and reenact §16-5B-19 of said code; to amend and reenact §30-7-1, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-7, §30-7-8, §30-7-9, §30-7-10, §30-7-11, §30-7-12, §30-7-13, §30-7-14, §30-7-15, §30-7-16, §30-7-17, §30-7-18, §30-7-19, and §30-7-20 of said code; to amend said code by

adding thereto twelve new sections, designated §30-7-21, §30-7-22, §30-7-23, §30-7-24, §30-7-25, §30-7-26, §30-7-27, §30-7-28, §30-7-29, §30-7-30, and §30-7-31, all relating to the Board of Nursing, prohibiting the practice of nursing without a license; providing other applicable sections; defining terms; renaming the board; providing for board composition and qualifications; setting forth the powers and duties of the board; clarifying rule-making authority; continuing a special revenue account; establishing license and permit requirements; establishing qualifications for licensure; codifying a scope of practice; creating a temporary permit; providing for reciprocal licensure; establishing renewal requirements; providing for exemptions from licensure; creating a special volunteer license; continuing a Joint Advisory Council; providing the council's composition; providing council members' terms; providing powers of the council; providing duties of the council; setting forth limitations of the article; permitting the board to file an injunction; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal offenses are to be reported to law enforcement; providing criminal penalties; repealing expired authority; and updating references.

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 2492**—A Bill to amend and reenact §9-6-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-2-809 of said code, all relating to mandatory reporting procedures of abuse and neglect of adults and children.

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 2510**—A Bill to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating to special funds of boards of examination or registration; requiring notice by Treasurer to Legislative Auditor of certain transfers; requiring review of the fee structure of board by Legislative Auditor under certain circumstances; and requiring report to Joint Standing Committee on Government Organization.

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. House Bill 2525**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, §16-56-4, §16-56-5, and §16-56-6, all relating to permitting a pharmacist to dispense a tobacco cessation therapy under a standing prescription drug order.

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 2530**—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 and §16-54-3, all relating to regulation of recovery residences; providing voluntary certification procedures; providing voluntary inspection standards; providing requirements for the referral of persons; providing criminal penalties; providing for the payment of state funds to recovery residences.

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 2531**—A Bill to amend and reenact §16-5Y-5 of the Code of West Virginia, 1931, as amended, relating to permitting certain trained professionals to provide counseling in a medication-assisted treatment program.

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 2559**—A Bill to amend and reenact §29-6-7a of the Code of West Virginia, 1931, as amended, relating to requiring a special report by the Division of Personnel; setting a deadline for delivering the report; requiring certain financial revenue and expense data; requiring information related to classification and compensation actions of the division; and requiring a description of any administrative appeals and outcomes.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Maroney, 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

**Senate Bill 81**, Prohibiting smoking in vehicle when minor under 16 present.

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

**Com. Sub. for Senate Bill 81** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-9A-11, relating to prohibiting smoking of tobacco products in a motor vehicle while an individual 17 years of age or



less is present; defining terms; making the violation a secondary misdemeanor offense; and providing a penalty.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 81), under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senator Azinger:**

**Senate Bill 485**—A Bill to amend and reenact §33-17A-3 of the Code of West Virginia, 1931, as amended, relating to defining a reduction in coverage and clarifying what is a termination for property insurance purposes.

Referred to the Committee on Banking and Insurance.

**By Senators Cline and Stollings:**

**Senate Bill 486**—A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to making daylight saving time the official time in West Virginia, year round.

Referred to the Committee on the Judiciary.

**By Senators Maroney, Trump, and Takubo:**

**Senate Bill 487**—A Bill to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating to the admissibility of health care staffing requirements in litigation;

providing that compliance with minimum staffing requirements creates a rebuttable presumption that appropriate staffing and adequate supervision were provided; and requiring that jury shall be instructed that presumption may be rebutted by clear and convincing evidence.

Referred to the Committee on the Judiciary.

**By Senators Maroney, Hardesty, Takubo, Stollings, Plymale, and Tarr:**

**Senate Bill 488**—A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended, relating to the Director of the Public Employee Insurance Agency's authority to execute contracts for group prescription drug insurance; requiring the director to include language in any contract for pharmacy benefits management that requires the quarterly report of certain data relating to payment of claims; requiring any pharmacy benefit manager of the agency to itemize administrative fees, rebates, or processing charges associated with pharmacy claims when there is a difference between the amount paid to a pharmacy provider and the amount charged to the agency; providing that any proprietary data be kept confidential; requiring the director to report aggregated data to the Joint Committee on Government and Finance at least quarterly which details any difference between the amount paid by a pharmacy benefit manager to pharmacy providers and the amount charged to the agency for each claim by the pharmacy benefit manager, and the impact any difference has on agency expenditures; and requiring the director to terminate a pharmacy benefit manager contract for failure to comply.

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

**By Senators Maroney, Takubo, and Tarr:**

**Senate Bill 489**—A Bill to amend and reenact §33-51-3, §33-51-4, §33-51-7, §33-51-8, and §33-51-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §33-51-10 and §33-51-11, all relating generally to the Pharmacy Audit Integrity Act and the regulation of pharmacy benefit managers; defining terms; requiring

pharmacy benefit managers to obtain a license from the Insurance Commissioner before doing business in the state; setting forth terms and fees for licensure of pharmacy benefit managers; authorizing the Insurance Commissioner to promulgate rules for legislative approval relating to licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers; requiring pharmacy benefit managers provide a reasonably adequate network; providing that a pharmacy benefit manager has a fiduciary duty to certain third parties; requiring the Insurance Commissioner to enforce the licensure provisions relating to pharmacy benefit managers; providing for the applicability of provisions to pharmacy benefit managers; clarifying that requirements do not apply to certain prescription drug plans; clarifying that an auditing entity may not seek a charge-back or recoupment from a pharmacy or pharmacist except in certain circumstances; providing that pharmacy benefit managers may not reimburse a pharmacy or pharmacist for prescription drugs or pharmacy services below a certain cost plus dispensing fee; prohibiting a pharmacy benefit manager from reimbursing a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the amount a pharmacy benefit manager reimburses its affiliates; and requiring the reporting of certain data relating to the payment of pharmacy claims.

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

**By Senators Baldwin, Ihlenfeld, Lindsay, Hardesty, Stollings, Romano, Jeffries, Woelfel, Beach, Prezioso, Palumbo, Plymale, and Unger:**

**Senate Bill 490**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5, §5-30-6, §5-30-7, §5-30-8, and §5-30-9, all relating to authorizing the State Treasurer to buy and sell certain loan obligations.

Referred to the Committee on Finance.

**By Senators Trump and Palumbo:**

**Senate Bill 491**—A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to delaying effective date for voter registration in conjunction with driver

licensing until July 1, 2020; and requiring the Division of Motor Vehicles to file a report with the Joint Committee on Government and Finance containing a complete list of all infrastructure needed to achieve compliance and a schedule outlining how the division will implement the changes by July 1, 2020.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 492**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to permitting unlicensed persons to be hired by consumers; providing for a short title; providing for definitions; providing for disclosure information; providing for an example disclosure form; providing for working without a license; providing for defense and relief; providing for remedies; providing for applicability; providing for limitations; providing for preemption of state statutes; and providing for an effective date.

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

**By Senator Maynard:**

**Senate Bill 493**—A Bill to amend and reenact §17C-6-8 of the Code of West Virginia, 1931, as amended, relating to correcting terminology referring to racing vehicles illegally on the street.

Referred to the Committee on Transportation and Infrastructure.

**By Senator Maynard:**

**Senate Bill 494**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-8a, relating to requiring the Department of Health and Human Resources to collaborate with the Workforce Development Board and the West Virginia Division of Personnel for purposes of job placement.

Referred to the Committee on Government Organization.

**By Senator Azinger:**

**Senate Bill 495**—A Bill to amend and reenact §46A-5-101 of the Code of West Virginia, 1931, as amended, relating to conforming the state Consumer Credit and Protection Act to the federal Fair Debt Collection and Practices Act.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Smith, and Maroney:**

**Senate Bill 496**—A Bill to repeal §16-7-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-7-5 of said code; and to amend said code by adding thereto a new article, designated §19-11E-1, §19-11E-2, §19-11E-3, §19-11E-4, §19-11E-5, §19-11E-6, §19-11E-7, §19-11E-8, §19-11E-9, §19-11E-10, §19-11E-11, §19-11E-12, §19-11E-13, §19-11E-14, §19-11E-15, §19-11E-16, and §19-11E-17, all relating generally to transferring authority to regulate milk from the Department of Health and Human Resources to the Department of Agriculture.

Referred to the Committee on Government Organization.

**By Senator Azinger:**

**Senate Bill 497**—A Bill to amend and reenact §30-38-1 of the Code of West Virginia, 1931, as amended, relating to expanding exceptions to the applicability of the Real Estate Appraiser Licensing and Certification Act.

Referred to the Committee on Government Organization.

Senators Maynard and Sypolt offered the following resolution:

**Senate Concurrent Resolution 21**—Urging the United States Congress to reopen public lands in the State of West Virginia.

Whereas, Off-highway vehicle recreation has demonstrated a tremendous economic benefit of at least \$43 billion throughout the United States and to West Virginia, in particular; and

Whereas, West Virginia has an unparalleled opportunity to replace lost jobs with new employment supporting off-highway vehicle recreation; and

Whereas, West Virginia currently suffers from the highest rates of drug overdose deaths, and the actual number of deaths due to opioid overdose has quadrupled since 2010, but wilderness therapy programs, outdoor recreation, and off-highway vehicle recreation have demonstrated positive health effects for veterans with post-traumatic stress disorder and individuals with opioid addictions; and

Whereas, Resumption of logging in the national forests will bring both economic benefits to the state and to the national budget as well as reduction in the potential for devastating wildfires through proper forest management and timbering practices; and

Whereas, The public benefits of maintaining West Virginia's recreation economy, opportunities for outdoor therapy, and vital logging industry provide powerful reasons to restore full access to nationally managed public lands in this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to reopen public lands in the state of West Virginia; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

Which, under the rules, lies over one day.

Senators Tarr, Sypolt, Smith, Maroney, Plymale, and Roberts offered the following resolution:

**Senate Resolution 25**—Designating January 31, 2019, as West Virginia Homeschool Day at the Capitol.

Whereas, The State of West Virginia is committed to excellence in education; and

Whereas, The State of West Virginia recognizes that parental involvement and individualized attention to educational success are the unique and basic ingredients of homeschooling; and

Whereas, Homeschooled students exhibit self-confidence and good citizenship and are prepared academically to meet the challenges of today's society; and

Whereas, Contemporary studies continue to confirm that children who are educated at home score exceptionally well on nationally normed achievement tests; and

Whereas, Homeschooled students have scored above the national average on the SAT and on the ACT tests; and

Whereas, Homeschooled students have been shown to be competitive with publicly and privately schooled students at the college level; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 31, 2019, as West Virginia Homeschool Day at the Capitol; and, be it

*Further Resolved,* That the Senate hereby recognizes all West Virginia homeschool families for their dedication to excellence and their success in the education of West Virginia's children; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Home Educators Association and the Christian Home Educators of West Virginia.

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

On motion of Senator Takubo, at 9:27 a.m., the Senate recessed to present Senate Resolution 25.

The Senate reconvened at 9:30 a.m. and proceeded to the seventh order of business.

**Senate Concurrent Resolution 12**, US Army CPL Lee Roy Young 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 20**, US Air Force SSGT Ryan David Hammond 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.

**Com. Sub. for Senate Bill 4**, Relating generally to Municipal Home Rule Program.

On third reading, coming up in regular order, with the right having been granted on Tuesday, January 29, 2019, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, 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.

**Eng. Com. Sub. for Senate Bill 187**, Authorizing Department of Revenue to promulgate legislative rules.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton,



Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 187) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 187) 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 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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 199 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 199) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 199) 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 233**, Relating to age requirements for deputy sheriff.

Having been read a third time on Monday, January 28, 2019, and now coming up in regular order, was reported by the Clerk.

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

**Eng. Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

Having been read a third time on yesterday, Wednesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 256 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 256) 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 297**, Extending expiration of military members’ spouses’ driver’s license.

Having been read a third time on yesterday, Wednesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 297 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, 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. 297) 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 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

Having been read a third time on yesterday, Wednesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 103**, Relating generally to Public Defender Services.

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

**Com. Sub. for Senate Bill 264**, Requiring courts to order restitution to crime victims where economically practicable.

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

**Com. Sub. for Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

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

On motion of Senator Boso, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section seventeen-a, line sixteen, after the words “governmental use” by changing the period to a comma and inserting the following: or those facilities which are owned or leased by a local exchange carrier, as defined by 150-CSR-6.;

On page three, section seventeen-a, line fifty-four, after the word “compensation” by inserting the words “if the lease includes multiple districts of the division of highways”;

And,

On page eleven, section six, line twenty-eight, by striking out the words “(d) and (e)” and inserting in lieu thereof the words “(c) and (d)”.

The bill (Com. Sub. for S. B. 270), as amended, was then ordered to engrossment and third reading.

**Senate Bill 331**, Using leashed dogs to track mortally wounded deer or bear.

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

**Senate Bill 332**, Relating to Class Q special hunting permit for disabled persons.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 100**, Increasing court fees to fund law-enforcement standards training and expenses.

**Senate Bill 324**, Relating to Commissioner of Agriculture employees.

**Com. Sub. for Senate Bill 357**, Relating generally to Division of Administrative Services.

**Senate Bill 358**, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

**Com. Sub. for Senate Bill 361**, Relating to Public Defender Services.

**Com. Sub. for Senate Bill 369**, Relating to generic drug products.

**Com. Sub. for Senate Bill 373**, Relating to financial responsibility of inmates.

**Senate Bill 377**, Relating to minimum wage and maximum hour standards.

**Com. Sub. for Senate Bill 389**, Allowing developmentally disabled person purchase base hunting license.

**Com. Sub. for Senate Bill 398**, Relating to compensation for senior judges.

**Senate Bill 399**, Relating to compensation for senior magistrates.

And,

**Eng. House Bill 2462**, Issuing a certificate to correctional employees to carry firearms.

Pending announcement of a meeting of the Committee of the Whole and a minority party caucus,

On motion of Senator Takubo, at 10:02 a.m., the Senate recessed until 10:30 a.m. today.

The Senate reconvened at 10:40 a.m. and, on motion of Senator Takubo, the Senate resolved itself into the Committee of the Whole for the purpose of consideration of Senate Bill 451 (*Comprehensive education reform*).

Senator Carmichael (Mr. President) then appointed Senator Blair to preside as Chairman of the Committee of the Whole.

Senator Blair assumed the Chair.

The Committee of the Whole having risen,

Senator Carmichael (Mr. President) took the Chair and the Senate resumed its regular session.

On motion of Senator Takubo, at 10:59 a.m., the Senate recessed until 12 Noon today.

The Senate reconvened at 12:09 p.m. and proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Stollings.

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

The Senate proceeded to the thirteenth order of business.

Senator Blair, Senate chair of the Committee of the Whole, submitted the following report:

Your Committee of the Whole has had under consideration

**Senate Bill 451**, Comprehensive education reform.

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

**Com. Sub. for Senate Bill 451** (originating in the Committee of the Whole)—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of the West Virginia, 1931, as amended; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated section §18-1-5; to amend and reenact §18-5-16, §18-5-16a, §18-5-18b, §18-5-32, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-45a; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11, §18-5G-12, §18-5G-13, §18-5G-14, and §18-5G-15; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9, and §18-9A-12 of said code; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, and §18-31-9; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, §18A-4-9, and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; providing for payment of bonus for accrued sick leave at retirement; modifying regular levy rates; allowing county boards of education to increase their regular levy rates to the statutory maximum; declaring nonseverability of act; providing that central office administrators, supervisors, and directors serve at the will and pleasure of the superintendent; authorizing the establishment of charter schools beginning in 2019-2020; establishing charter school employee permissive participation in



the Public Employees Insurance Act; establishing charter school employee eligibility for the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; providing for virtual charter schools; establishing requirements for charter school contracts and the process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; creating the West Virginia Charter Public School Commission; establishing membership of the commission; providing for appointment of members; setting meeting requirements; establishing funding for charter school enrollment; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; creating prohibitions; allowing charter schools access to public facilities; establishing reporting requirements; providing that appropriation will be disbursed to the public charter schools to serve needs of exceptional children; providing for public charter school coverage by the Board of Risk and Insurance Management; creating personal income tax credits for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; clarifying the employment term for school employees and the applicability to time lost due to a work stoppage or strike; including teacher recommendations in the considerations for student promotion; expanding social and emotional support services provided to students; clarifying the job duties and responsibilities of school counselors; modifying the contact requirements for a student's guardians upon accrual of unexcused absences; requiring meaningful contact be made with guardians after a student has accrued three and five unexcused absences; specifying that a principal may make meaningful contact with guardians after a student has accrued three unexcused absences; expanding the definition of "professional student support personnel"; increasing the basic foundation allowance for professional student support

personnel; increasing the county allowance for current expenses to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; providing written notice of state Board of Risk and Insurance Management insurance coverage to county board of education insureds; providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program only; enhancing counties' ability to provide additional compensation to teachers; permitting a county board of education to base its employment decisions, transfers, reassignments, reductions in the number of professional personnel, reductions in classroom teaching positions, and reductions in the workforce on an individual's qualifications; setting forth the factors to be considered when determining an individual's qualifications; clarifying payment to teachers and withholdings; enacting an Educational Savings Account Program; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA); establishing ESA application requirements; defining responsibilities of the Treasurer; establishing a Parent Review Committee; providing eligibility requirements applicable to education service providers; providing for the responsibilities of resident school districts; addressing legal proceedings; setting local share maximum at 2015-2016 level; increasing salaries for teachers; granting additional experiences for purposes of pay scale to teachers meeting specified requirements; providing additional pay for certain teachers providing math instruction; increasing salaries for service personnel; providing for accrual of personal leave at the end of each pay period; modifying certain student financial aid resources available to students pursuing public school teaching careers; abolishing the Underwood-Smith Teacher Loan Assistance Program; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; modifying program purpose to target certain academic disciplines and emphasize the academic distinction of award recipients; modifying award eligibility, renewal, and service agreement criteria to reflect modified program purpose; requiring certain mentoring services be provided to award recipients; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award and limiting tuition and fee charges for program recipients; and requiring annual written notice of BRIM insurance coverages by county boards to employee insureds.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,

*Chair.*

Senator Takubo moved that the bill (Com. Sub. for S. B. 451) contained in the preceding report from the Committee of the Whole be taken up for immediate consideration.

The question being on the adoption of Senator Takubo's aforesated 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, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's aforesated motion had prevailed.

Whereupon, the bill (Com. Sub. for S. B. 451) contained in the preceding report from the Committee of the Whole was taken up for immediate consideration, read a first time, and ordered to second reading.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:16 p.m., the Senate adjourned until tomorrow, Friday, February 1, 2019, at 11 a.m.

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## FRIDAY, FEBRUARY 1, 2019

The Senate met at 11:19 a.m.

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

Prayer was offered by Pastor Thomas Price, Roxalana Gospel Tabernacle, Dunbar, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael T. Azinger, a senator from the third district.

Pending the reading of the Journal of Thursday, January 31, 2019,

At the request of Senator Unger, 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. Senate Bill 28**, Removing hotel occupancy tax limit collected for medical care and emergency services.

On motion of Senator Takubo, 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 fourteen, line ninety-two, by striking out the word "or";

On page four, section fourteen, line ninety-four, after the word “Authority” by changing the period to a semicolon and inserting the following: or

(11) Support and operation of economic development activities, including site development, facilities and infrastructure.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 28**—A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating generally to the purposes for which expenditures may be made by county commissions and municipalities from a certain portion of the net proceeds of hotel occupancy taxes; removing the limitation on the amount that may be expended for medical care and emergency services; and allowing a new purpose for those expenditures for the support and operation of economic development activities, including site development, facilities and infrastructure.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. S. B. 28) was referred to the Committee on Rules.

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 177**, Fire Commission rule relating to State Building Code.

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 2010**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-107, §49-2-113, and §49-2-

708 of said code; to amend said code by adding thereto two new sections, designated §49-2-111A and §49-2-111B; and to amend and reenact §49-4-108, §49-4-406, §49-4-413, §49-4-604, §49-4-608, §49-4-711, §49-4-714 and §49-4-724 of said code, all relating to foster care; defining terms; transitioning the foster care population to a managed care organization; providing a sunset date; require the department to enter into certain types of contracts with child placing agencies; creating a state foster care ombudsman; providing authority to the ombudsman; requiring a study of kinship care; requiring the department to review certain legislative rules; extending the time a foster care certification is authorized; requiring home safety assessment to take place annually; prohibiting the removal of a child from a residential child care program; providing exceptions to permit the removal of a child from a residential child care program; establishing payment rates for services; permitting those rates be exceeded when certain conditions are met; prohibiting the termination of parental rights when participating in a medically assisted treatment program; prohibiting the placement of a foster child in an out of state facility; providing exceptions to the placement of a foster child in an out of state facility; and requiring reporting.

Referred to the Committee on Health and Human Resources; and then 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 2324**—A Bill to amend and reenact §30-36-2, §30-36-7, §30-36-9, §30-36-10, §30-36-14, §30-36-17, and §30-36-18 of the Code of West Virginia, 1931, as amended, all relating to authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy; defining terms; providing rulemaking and emergency rule-making authority; requiring certificates; establishing qualifications for certificate holders; providing for the surrender of certificates; limiting scope; prohibiting advertising; and providing for the suspension or revocation of certificates.

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 2503**—A Bill to amend and reenact §49-4-601 of the Code of West Virginia, 1931, as amended, relating to court actions; procedures in child neglect or abuse cases; requiring a petition to include an accusatory statement; when a court may and may not appoint counsel; and requiring a court to appoint counsel to an unrepresented person if necessary to satisfy the requirements of due process.

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 2521**—A Bill to amend and reenact §20-2-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §20-2-12 of said code; and to amend and reenact §20-2-49 of said code, all relating to permitting the selling, trading, and bartering of fur-bearer parts, including carcasses for the making of lures and baits, carcass parts, including glands, skulls, claws, and bones, and fur-bearer urine; and providing that the hide and tails of legally killed squirrels may be sold, traded or bartered.

Referred to the Committee on Natural Resources.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 117**, Relating to incentives for consolidating local governments.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 154**, Using school facilities for funeral and memorial services for certain community members.

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

**Com. Sub. for Senate Bill 154** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-13d, relating to the use of school facilities; recognizing schools are integral parts of communities and the death of certain community members can have a significant impact on communities; requiring school facilities to be used for funeral and memorial services of certain community members; permitting county boards of education to establish a process for requesting the use of school facilities for funeral and memorial services; providing that county boards of education are not responsible for additional costs associated with such funeral and memorial services that are held at school facilities; and clarifying that such funeral and memorial services that are held at school facilities are not to disrupt or



interfere with classroom instruction or other scheduled school event or activity.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bills 157, 158, and 159**, Department of Administration rule relating to purchasing.

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

**Com. Sub. for Senate Bill 157** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee; authorizing the Department of Administration to promulgate a legislative rule relating to purchasing; authorizing the Department of Administration to promulgate a legislative rule relating to state-owned vehicles; and authorizing the Department of Administration to promulgate a legislative rule relating to leasing of space and acquisition of real property on behalf of state spending units.

**Senate Bills 168, 169, 170, 171, 172, 173, 174, 175, and 176**, DHHR rule relating to collection and exchange of overdose data.

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

**Com. Sub. for Senate Bill 175** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to collection and exchange of data related to overdoses; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to assisted living residences; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food manufacturing facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to newborn screening system; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management clinic licensure; and authorizing the Health Care Authority to promulgate a legislative rule relating to cooperative agreement approval and compliance.

And,

**Senate Bill 387**, Authorizing Governor seek return of fugitives found in other states or District of Columbia.

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

**Com. Sub. for Senate Bill 387** (originating in the Committee on the Judiciary)—A Bill to repeal §5-1-6, §5-1-7, §5-1-8, §5-1-9, §5-1-10, §5-1-11, and §5-1-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new

article, designated §62-14A-1, §62-14A-2, §62-14A-3, §62-14A-4, §62-14A-5, §62-14A-6, and §62-14A-7, all relating generally to extradition; recodifying existing extradition procedures in a new article; including persons who have been improperly released prior to completion of a sentence as being subject to extradition; designating the Commissioner of the Division of Corrections and Rehabilitation as the responsible official as to incarcerated persons subject to extradition; clarifying the proper types and number of documents used in the extradition process; and updating of designated persons or entities in other jurisdictions involved in the extradition process.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 343**, Relating to review and approval of state property leases.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 392**, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work.

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

**Com. Sub. for Senate Bill 392** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-3-14a, relating to payment of certain claims received by the Division of Corrections and Rehabilitation not otherwise specifically provided for in this article; requiring audit of such claims by the division; providing procedure for payment of valid audited claims from division funds; and authorizing payment of unaudited claims in certain circumstances from division funds.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Beach, Romano, Jeffries, and Lindsay:**

**Senate Bill 498**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate and develop a special hiring procedure for hourly personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the Division of Personnel from classified service hiring procedures upon implementation of the special hiring process; providing exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.

Referred to the Committee on Government Organization.

**By Senators Blair and Cline:**

**Senate Bill 499**—A Bill to amend and reenact §11-10-3, §11-10-4, §11-10-7, §11-10-14, §11-10-15, and §11-10-16 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-10-18c; to amend and reenact §11-21-3, §11-21-51a, §11-21-59, and §11-21-71a of said code; to amend said code by adding thereto four new sections, designated §11-21-37a, §11-21-37b, §11-21-37c, and §11-21-59a; to amend said code by adding thereto a new article, designated §11-21A-1, §11-21A-2, §11-21A-3, §11-21A-4, §11-21A-5, §11-21A-6, §11-21A-7, §11-21A-8, §11-21A-9, §11-21A-10, §11-21A-11, and §11-21A-12; and to amend and reenact §11-24-20 of said code, all relating generally to amending West Virginia tax laws to conform to changes in how partnerships and their partners and other pass-through entities and their equity owners are treated for federal income tax purposes for tax years beginning after December 31, 2017; amending West Virginia Tax Procedures and Administration Act, Personal Income Tax Act, and Corporation Net Income Tax Act to provide for administration, collection, and enforcement of income tax on certain partnerships and other pass-

through entities treated as partnerships for federal income tax purposes and their partners and equity owners in conformity with changes made by United States Congress in how these entities and their equity owners are treated for federal income tax purposes for taxable years beginning after December 31, 2017; providing for application of West Virginia Tax Procedure and Administration Act to apply to imputed income taxes imposed on partnerships and other pass-through entities; imposing addition to tax for failure of partnership and other pass-through entity to file partnership's returns and reports; imposing imputed personal income tax on certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes based on federal audit adjustments; providing general rules and special rules for allocation and apportionment of business income; providing for filing of amended composite personal income tax returns by pass-through entities on behalf of nonresident equity owners; providing additional rules for reporting of federal changes to federal taxable incomes; providing amended rules for reporting of federal adjustments by Internal Revenue Service or other competent authority; providing rules for reporting adjustments by other states' resident claims credit for tax paid to another state; providing for pass-through entity withholding on nonresidents when partnership or other pass-through entity pushes federal audit adjustments out to equity owners; adding a new article providing for administration, collection, and enforcement of additional West Virginia income taxes from certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes, or their equity owners, that are attributable to federal audit adjustments; defining certain terms; providing for reporting of adjustments to federal taxable income; providing for reporting of federal audit adjustments resulting from federal audit of pass-through entity or from administrative adjustment requests; providing for assessment of additional West Virginia income taxes, interest, and additions to tax arising from federal adjustments to federal taxable income within applicable statute of limitations; allowing payment of estimated West Virginia income tax payments during course of federal audit of certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing for refund or credit of West Virginia income taxes attributable to

finalized federal audit adjustments; providing rules for scope of audit adjustments and extensions of time; specifying effective dates; providing for legislative, interpretive, and procedural rules; providing for Tax Procedures and Administration Act and Tax Crimes and Penalties Act to apply to imputes income tax imposes on certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing additional rules for reporting of changes in federal taxable income of corporations; making technical corrections in existing code sections being amended; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Boso, Azinger, Baldwin, Beach, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Woelfel:**

**Senate Bill 500**—A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, and §31-15D-5, all relating to creating the Sewer and Water Infrastructure Replacement Act; creating the Sewer and Water Infrastructure Replacement Fund; providing that the fund shall be administered by the West Virginia Investment Management Board; permitting a certain amount of excess revenue be used to replace aging water and sewer facilities owned and operated by public service districts and municipalities; establishing the authority of the West Virginia Infrastructure and Jobs Development Council; establishing eligibility; establishing guidelines and an application process; establishing a reserve; and requiring rulemaking.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Takubo, Maroney, Sypolt, Romano, Boso, and Cline:**

**Senate Bill 501**—A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to increasing

the compensation of county board of education members; providing for compensation for board members who participate in training; providing for an increase in board member compensation for members who serve on a governing council for educational services; providing for an increase in board member compensation for members who serve on administrative council for vocational programs; and providing for reimbursement by sworn itemized statement.

Referred to the Committee on Education.

**By Senator Blair:**

**Senate Bill 502**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exemptions for the sales of investment metal bullion and investment coins.

Referred to the Committee on Finance.

**By Senators Sypolt, Facemire, and Cline:**

**Senate Bill 503**—A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended, relating to allowing out-of-state residents to ride a motorcycle without a helmet if they are allowed to do so in their state of residence.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Sypolt and Romano:**

**Senate Bill 504**—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to the payment of attorney fees in subsidized adoptions or guardianships directly to the attorney.

Referred to the Committee on the Judiciary.

**By Senator Azinger:**

**Senate Bill 505**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j; and to amend and reenact §11-21-17a of said code, all relating to creating an additional modification to the West Virginia



adjusted gross income of shareholders of S corporations engaged in banking business in this state, similar to the modification that presently exists in the code for banks organized as C corporations.

Referred to the Committee on Finance.

**By Senator Azinger:**

**Senate Bill 506**—A Bill to amend and reenact §33-26A-19 of the Code of West Virginia, 1931, as amended, relating to guaranty associations; and updating language.

Referred to the Committee on Banking and Insurance.

**By Senators Azinger and Cline:**

**Senate Bill 507**—A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating generally to the ethical standards for elected and appointed officials and public employees; and increasing the class size of similarly situated persons or businesses that includes a person who is also a public official, excluding members of the Legislature, that determines whether a public official may vote on a matter before him or her.

Referred to the Committee on the Judiciary.

**By Senator Takubo:**

**Senate Bill 508**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-12E-1, §29-12E-2, §29-12E-3, §29-12E-4, §29-12E-5, §29-12E-6, §29-12E-7, §29-12E-8, §29-12E-9, §29-12E-10, and §29-12E-11, all relating to creating a private state exposure property and casualty insurance company to provide insurance coverage for the state's property and casualty exposures.

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

**By Senator Takubo:**

**Senate Bill 509**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-52-1, §33-52-2, §33-52-3, and §33-52-4, all relating to establishing the Fairness in Cost-Sharing Calculation Act; providing for

definitions; establishing health plan cost sharing calculations; establishing pharmacy benefits cost sharing calculations; and providing for rule-making authority.

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

**By Senators Takubo, Maroney, and Weld:**

**Senate Bill 510**—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; setting out requirements for an expert who signs a certificate of merit; allowing for admissibility of certificate of merit in actions against health care providers; and allowing testimony in a judicial proceeding or by deposition upon issuing a certificate of merit.

Referred to the Committee on Finance.

**By Senators Trump and Boso:**

**Senate Bill 511**—A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; to amend and reenact §60-6-8 of said code; and to amend and reenact §60-8-3, §60-8-17, and §60-8-20 of said code, all relating to creating alternating wine proprietorships for wineries and farm wineries; clarifying sampling procedures and requirements for wineries and farm wineries; permitting certain charitable events to auction wine bottles for off-premises consumption; clarifying alcoholic liquors are sold by the drink in certain Class A licenses; stating when lawful to conduct wine bottle sales in certain Class A licenses; permitting the sale of wine in Division II and III college stadiums; providing a 30-day requirement to issue or deny a completed license application; and creating a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees.

Referred to the Committee on the Judiciary.

Senators Rucker, Swope, Boso, and Palumbo offered the following resolution:

**Senate Resolution 26**—Recognizing the month of February as Turner Syndrome Awareness Month.

Whereas, Turner syndrome is a noninheritable chromosomal disorder that affects one in 2,000 live-born baby girls; and

Whereas, Turner syndrome is most often diagnosed during fetal life, in infancy, during the late pre-teen period (8-12 years), in late adolescence, or early adulthood; and

Whereas, Early diagnosis facilitates prevention or remediation of growth failure, hearing problems, and learning difficulties; and

Whereas, Individuals with Turner syndrome have an increased risk of nonverbal learning disorder, which can cause problems in math, visual-spatial skills, executive function skills, and job retention; and

Whereas, With the help of medical specialists and an effective social support system, a woman with Turner syndrome can live a happy, healthy life; and

Whereas, The Turner Syndrome Society works to advance awareness, facilitate research, and provide support for all persons touched by Turner syndrome; and

Whereas, The establishment of Turner Syndrome Awareness Month will provide the opportunity to share experiences and information, and increase public awareness about Turner syndrome; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the month of February as Turner Syndrome Awareness Month; and, be it

*Further Resolved,* That the Senate encourages all our residents to increase their awareness of, education of, and services for Turner syndrome that each year affects female babies in West Virginia and the rest of the United States; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the appropriate officials of the Turner Syndrome Society.

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

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 21**, Urging US Congress open public lands in WV.

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

The Senate proceeded to the eighth order of business.

**Com. Sub. for Senate Bill 4**, Relating generally to Municipal Home Rule Program.

On third reading, coming up in regular order, with the right having been granted on Tuesday, January 29, 2019, for further amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Weld, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page eight, section five-a, line one hundred thirty-five, after the word “regulation” by inserting a comma and the words “under the provisions of this section,”;

And,

On page ten, section five-a, line one hundred seventy-nine, after the word “regulation” by inserting a comma and the words “under the provisions of this section,”.

On motion of Senator Palumbo, the following amendment to the bill (Com. Sub. for S. B. 4) was next reported by the Clerk:

On page eleven, section five-a, lines two hundred fourteen through two hundred twenty-two, by striking out all of subsection (n);

And,

By relettering the remaining subsections.

Following discussion,

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

On motions of Senators Weld and Jeffries, the following amendment to the bill (Com. Sub. for S. B. 4) was next reported by the Clerk:

On pages eleven and twelve, section five-a, lines two hundred twenty-three through two hundred thirty, by striking out all of subsection (o);

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of the amendment offered by Senators Weld and Jeffries to the bill, the same was put and prevailed.

On motion of Senator Romano, the following amendment to the bill (Com. Sub. for S. B. 4) was next reported by the Clerk:

On page nine, section five-a, line one hundred sixty-nine, by striking out the words "West Virginia Workplace Freedom Act and".

Following discussion,

The question being on the adoption of Senator Romano's 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, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: Smith—1.

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

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 4 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 4 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Maynard, Roberts, and Rucker—3.

Absent: Smith—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. 4) 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 103**, Relating generally to Public Defender Services.

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 some attorneys in his practice currently accept appointments in panel cases although he currently does not.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Smith and Sypolt—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 S. B. 103) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Smith and Sypolt—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 S. B. 103) takes effect July 1, 2019.

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

**Eng. Senate Bill 233**, Relating to age requirements for deputy sheriff.

Having been read a third time on Monday, January 28, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 233 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Smith and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 233) 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 264**, Requiring courts to order restitution to crime victims where economically practicable.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Smith—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. 264) 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 270**, Streamlining process for utilities access to DOH rights-of-way.

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 270 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 270) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 270) 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 331**, Using leashed dogs to track mortally wounded deer or bear.

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 331 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Maroney, Romano, 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. S. B. 331) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Maroney, Romano, and Woelfel—3.

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. 331) 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 332**, Relating to Class Q special hunting permit for disabled persons.

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 332 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 332) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 332) 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 390,** Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

Having been read a third time on Wednesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Committee Substitute for Senate Bill 390 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 390) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 390) takes effect from passage.

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

On motion of Senator Takubo, at 12:29 p.m., the Senate recessed until 1 p.m. today.

The Senate reconvened at 1:18 p.m. and proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 100**, Increasing court fees to fund law-enforcement standards training and expenses.

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

**Senate Bill 324**, Relating to Commissioner of Agriculture employees.

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

**Com. Sub. for Senate Bill 357**, Relating generally to Division of Administrative Services.

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

**Senate Bill 358**, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

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

**Com. Sub. for Senate Bill 361**, Relating to Public Defender Services.

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

**Com. Sub. for Senate Bill 369**, Relating to generic drug products.

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

**Com. Sub. for Senate Bill 373**, Relating to financial responsibility of inmates.

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

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

On page two, section eleven, lines thirty-two through forty-two, by striking out subsections (d) and (e) and inserting in lieu thereof the following:

(d) If an inmate is awarded a civil judgment, or settles a civil matter, which awards him or her monetary damages, the court in which those damages are awarded or settled shall enter an order which deducts attorney fees and litigation costs owed the inmate's legal counsel and deducts all known outstanding child support, restitution, ~~or other court-ordered obligations~~ spousal support, and court costs from the award to the inmate, and satisfies those obligations, prior to releasing any funds to the inmate.

(e) Notwithstanding the failure of a court to act in accordance with subsection (d), the division may honor any outstanding court-ordered obligations of which it is aware, to satisfy all known orders of child support, restitution, spousal support, or court costs and shall deduct from any civil judgment or civil settlement such amounts necessary to pay such obligations of the inmate, if any, arising from orders of child support, restitution, spousal support or court costs prior to depositing funds from such civil judgment or civil settlement in the inmate's account. The provisions of this subsection shall apply to civil actions filed after July 1, 2019.

Following discussion,

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

The bill (Com. Sub. for S. B. 373), as amended, was then ordered to engrossment and third reading.

**Senate Bill 377**, Relating to minimum wage and maximum hour standards.

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

**Com. Sub. for Senate Bill 389**, Allowing developmentally disabled person purchase base hunting license.

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

On motions of Senators Stollings and Maynard, the following amendment to the bill was reported by the Clerk and adopted:

On page three, section thirty-a, after line sixty-one, by inserting a new subsection, designated subsection (3), to read as follows:

(3) After providing an initial signature, the licensed physician may, at his or her discretion, require the developmentally disabled person to be reexamined or otherwise redetermined to qualify as required by this section.

(A) The director shall promulgate rules for issuing a temporary modified certificate of training for developmentally disabled individuals who have a potentially progressive illness.

(B) In no event may a physician be held liable for criminal or civil acts of a developmentally disabled person who obtains a modified certificate of training.

The bill (Com. Sub. for S. B. 389), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 398**, Relating to compensation for senior judges.

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

**Senate Bill 399**, Relating to compensation for senior magistrates.

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



**Com. Sub. for Senate Bill 451**, Comprehensive education reform.

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

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

On pages forty-six through forty-nine, by striking out all of section ten and inserting in lieu thereof a new section, designated section ten, to read as follows:

**§18-5G-10. West Virginia Public Charter School Commission; members; appointments; meetings.**

(a) There is hereby created the West Virginia Public Charter School Commission which shall report directly to and be responsible to the state board, separate from the Department of Education, for carrying out its duties in accordance with this article. The mission of the commission is to authorize high-quality public charter schools throughout the state that provide more options for students to attain a thorough and efficient education, particularly through schools designed to expand the opportunities for at-risk students. The commission and public charter schools authorized in accordance with this article are subject to the general supervision of the state board solely for the purposes of accountability for meeting the standards for student performance required of other public school students under §18-2E-5 of this code. Consistent with the provisions of this article, the commission has authority to authorize public charter schools in school districts that do not meet standards as determined pursuant to state board policy. Except as otherwise authorized in this article, no other governmental agency or entity may assume any charter authorizing function or duty in any form.

(b) The commission shall consist of seven voting members, as follows:

(1) The State Superintendent of Schools, or designee;

(2) The Chancellor of the Higher Education Policy Commission, or designee;

(3) The Chancellor for Community and Technical College Education, or designee; and

(4) Four members appointed by the Governor, with the advice and consent of the Senate.

(c) The chair of the House Committee on Education and the chair of the Senate Committee on Education shall serve as non-voting ex-officio members of the commission.

(d) Each appointed member shall represent the public interest and must satisfy the following requirements:

(1) Be a citizen of the state;

(2) Possess experience and expertise in public or nonprofit governance, management and finance, public school leadership, assessment, curriculum or instruction, or public education law; and

(3) Have demonstrated an understanding of, and commitment to, charter schooling as a strategy for strengthening public education.

(e) No more than three of the appointed members of the commission may be of the same political party. No more than two of the appointed members may be residents of the same congressional district. No person may be appointed who holds any other public office or public employment under the government of this state or any of its political subdivisions, or who is an appointee or employee of any charter school governing board or an immediate family member of an employee under the jurisdiction of the commission or any charter school governing board. No person may be appointed who is engaged in, or employed by a person or company whose primary function involves, the sale of services and activities to public charter schools or charter school governing boards.

(f) The initial appointments made pursuant to this section shall be for staggered one- and two-year terms. Thereafter, all appointments shall be for a term of two years. The initial appointments shall be made before February 1, 2020. The commission shall meet as soon as practical after February 1, 2020, upon the call of the Governor, and shall organize for business by selecting a chairman and adopting bylaws. Subsequent meetings shall be called by the chairman.

(g) An appointed member of the commission may be removed from office by the Governor for official misconduct, incompetence, neglect of duty, or gross immorality. A member may also be removed if the member's personal incapacity renders the member incapable or unfit to discharge the duties of the office or if the member is absent from a number of meetings of the commission as determined and specified by the commission in its bylaws. Whenever an appointed member vacancy on the commission exists, the Governor shall appoint, with the advice and consent of the Senate, a qualified person for the remainder of the vacated term.

(h) Except in the case of gross negligence or reckless disregard of the safety and well-being of another person, the commission and members of the commission in their official capacity are immune from civil liability with respect to all activities related to a public charter school approved by the commission. The official actions of the members of the commission who are serving in an ex officio capacity by virtue of their designation or employment in another position are commission member actions only, and may not be construed as official actions or positions of such member's employing entity.

(i) The commission may appoint an executive director and may employ such additional staff as may be necessary. The executive director shall serve at the will and pleasure of the commission. The executive director must demonstrate an understanding of and commitment to charter schooling as a strategy for strengthening public education and must possess an understanding of state and federal education law.

(j) The commission shall meet as needed, but at least bi-annually. From funds appropriated or otherwise made available for such purpose, its members shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties upon submission of an itemized statement in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

On motion of Senator Clements, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On page ninety-nine, section seven-a, lines sixty-eight through seventy-nine, by striking out all of subsection (j) and inserting in lieu thereof a new subsection, designated subsection (j), to read as follows:

(j) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. ~~A random selection system established by the employees and approved by the county board shall be used to determine the priority if two or more employees accumulate identical seniority. Provided, That when two or more principals have accumulated identical seniority. All~~ decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (k) through (s) of this section, the word “qualifications” means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) to the extent those qualifications are set forth in county board policy: *Provided, That in defining the word “qualifications” in its policy, the county board:*

(1) Shall consider including the criteria set forth in subsection (b) of this section; and

(2) May not include salary as one of the criteria in the definition.

Following discussion,

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

On motions of Senators Palumbo, Baldwin, Beach, Facemire, Ihlenfeld, Hardesty, Jeffries, Lindsay, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On page fourteen, by striking out all of section five.

Following discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

On motions of Senators Plymale, Baldwin, Beach, Facemire, Ihlenfeld, Hardesty, Jeffries, Lindsay, Palumbo, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On pages twenty-five through fifty-two, by striking out all of article five-g.

Following extended discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

On motions of Senators Ihlenfeld, Baldwin, Beach, Facemire, Hardesty, Jeffries, Lindsay, Plymale, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On pages seventy-seven through eighty-seven, by striking out all of article thirty-one.

Following discussion,

(Senator Weld in the Chair.)

Following discussion,

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

Following discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

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

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Trump, at 3:59 p.m., the Senate recessed for 15 minutes.

The Senate reconvened at 4:28 p.m. and resumed consideration of

**Com. Sub. for Senate Bill 451**, Comprehensive education reform.

On motion of Senator Rucker, the following amendments to the bill (Com. Sub. for S. B. 451) were next reported by the Clerk, considered simultaneously, and adopted:

On page thirty, section three, lines sixty-six through seventy, by changing the colon to a period and striking out the proviso;

On page eighty-one, section four, line twenty-five, after the word “code” by inserting a comma and the following: “and the treasurer shall verify with the Department of Education within 30 days that the student has withdrawn from public school under one of those exemptions”;

And,

On page eighty-one, section four, line twenty-six, after “ESA” by striking out the words “if funds are available” and inserting the following: after verifying with the Department of Education that:

(1) For an ESA student who chooses to attend a private school, the school board will communicate their continued attendance; or

(2) For an ESA student who chooses an individualized instructional program, he or she must annually take a nationally normed standardized test of academic achievement and received a score within or above the fourth stanine or if below the fourth stanine, shows improvement from the previous year’s results, or a certified teacher conducts a review of the student’s academic work and determines that the student is making academic progress commensurate with their age and ability and reports the results to the county board in which the student resides no later than July 30.

A student who has failed to maintain good standing under this subsection may re-establish eligibility for an ESA after complying with another exemption for compulsory school attendance for a period of one school year.

On motion of Senator Smith, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On page twelve, section six-f, line forty, after “100” by inserting a colon and the following proviso: *Provided further, That prior to any regular levy rate increase, such increase must be approved by a majority vote of the voters of the county.*



Following discussion,

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

On motion of Senator Takubo, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On page eighty, section four, line two, after "2019." by inserting the following: The household income of an eligible student shall be less than \$150,000 per year to qualify for the education savings account program. For purposes of this article, the household income shall be the adjusted gross income claimed for federal income tax purposes by the biological parent or parents, legal guardian or guardians, custodian or custodians, or person or persons with legal authority to act on behalf of an eligible student plus any income of the eligible student. The treasurer shall develop a process for verifying the income of any applicant for the education savings account.

On motion of Senator Lindsay, the following amendment to Senator Takubo's amendment to the bill (Com. Sub. for S. B. 451) was reported by the Clerk:

On page one, by striking out "\$150,000" and inserting in lieu thereof "\$44,000".

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to Senator Takubo's amendment to the bill, and on this question, Senator Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

The question now being on the adoption of Senator Takubo's amendment to the bill (Com. Sub. for S. B. 451), and on this question, Senator Trump demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Lindsay—1.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's amendment to the bill adopted.

On motion of Senator Takubo, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk and adopted:

On page one hundred nineteen, section ten, lines eighty-one through eighty-eight, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follow:

(c) (1) A classroom teacher who has not been absent for more than four days during the 200-day employment term shall receive a bonus of \$500 at the end of the school year.

(2) If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable classroom teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all classroom

teachers. This payment may not be counted as part of the final average salary for the purpose of calculating retirement.

On motions of Senators Prezioso, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Plymale, Palumbo, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

On page eleven, section six-f, lines thirty-two through forty, by striking out all of subsection (c);

And,

By relettering the remaining subsections.

Following discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

Thereafter, Senator Takubo requested unanimous consent that the remarks by Senator Trump regarding the adoption of the amendment offered by Senators Prezioso, Baldwin, Beach,

Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Plymale, Palumbo, Romano, Stollings, Unger, and Woelfel to Committee Substitute for Senate Bill 451 be ordered printed in the Appendix to the Journal.

Which consent was not granted, Senator Trump objecting.

On motions of Senators Unger, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Plymale, Palumbo, Prezioso, Romano, Stollings, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 451) was next reported by the Clerk:

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

#### **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) 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	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doc-
Exp	Class	Class	Class		+15		+15	+30	+45	torate
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218

3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499
5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,761	36,727	37,488	39,256	40,017	40,777	41,538	42,573
9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611
11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204
16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,776	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945

29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>

Years Exp	<u>4<sup>th</sup> Class</u>	<u>3<sup>rd</sup> Class</u>	<u>2<sup>nd</sup> Class</u>	<u>A.B.</u>	<u>A.B. + 15</u>	<u>M.A.</u>	<u>M.A. + 15</u>	<u>M.A. + 30</u>	<u>M.A. + 45</u>	<u>Doc- torate</u>
<u>0</u>	<u>32,057</u>	<u>32,746</u>	<u>33,012</u>	<u>34,455</u>	<u>35,216</u>	<u>36,983</u>	<u>37,744</u>	<u>38,505</u>	<u>39,266</u>	<u>40,301</u>
<u>1</u>	<u>32,385</u>	<u>33,074</u>	<u>33,340</u>	<u>34,973</u>	<u>35,734</u>	<u>37,502</u>	<u>38,263</u>	<u>39,023</u>	<u>39,784</u>	<u>40,819</u>
<u>2</u>	<u>32,714</u>	<u>33,402</u>	<u>33,668</u>	<u>35,492</u>	<u>36,253</u>	<u>38,020</u>	<u>38,781</u>	<u>39,542</u>	<u>40,303</u>	<u>41,338</u>
<u>3</u>	<u>33,042</u>	<u>33,730</u>	<u>33,996</u>	<u>36,011</u>	<u>36,771</u>	<u>38,539</u>	<u>39,300</u>	<u>40,060</u>	<u>40,821</u>	<u>41,856</u>
<u>4</u>	<u>33,614</u>	<u>34,302</u>	<u>34,568</u>	<u>36,773</u>	<u>37,534</u>	<u>39,302</u>	<u>40,063</u>	<u>40,823</u>	<u>41,584</u>	<u>42,619</u>
<u>5</u>	<u>33,942</u>	<u>34,630</u>	<u>34,896</u>	<u>37,292</u>	<u>38,053</u>	<u>39,820</u>	<u>40,581</u>	<u>41,342</u>	<u>42,103</u>	<u>43,138</u>
<u>6</u>	<u>34,270</u>	<u>34,958</u>	<u>35,224</u>	<u>37,810</u>	<u>38,571</u>	<u>40,339</u>	<u>41,100</u>	<u>41,860</u>	<u>42,621</u>	<u>43,656</u>
<u>7</u>	<u>34,598</u>	<u>35,287</u>	<u>35,552</u>	<u>38,329</u>	<u>39,090</u>	<u>40,857</u>	<u>41,618</u>	<u>42,379</u>	<u>43,140</u>	<u>44,175</u>
<u>8</u>	<u>34,926</u>	<u>35,615</u>	<u>35,881</u>	<u>38,847</u>	<u>39,608</u>	<u>41,376</u>	<u>42,137</u>	<u>42,897</u>	<u>43,658</u>	<u>44,693</u>
<u>9</u>	<u>35,254</u>	<u>35,943</u>	<u>36,209</u>	<u>39,366</u>	<u>40,127</u>	<u>41,894</u>	<u>42,655</u>	<u>43,416</u>	<u>44,177</u>	<u>45,212</u>
<u>10</u>	<u>35,583</u>	<u>36,271</u>	<u>36,537</u>	<u>39,886</u>	<u>40,646</u>	<u>42,414</u>	<u>43,175</u>	<u>43,936</u>	<u>44,696</u>	<u>45,731</u>
<u>11</u>	<u>35,911</u>	<u>36,599</u>	<u>36,865</u>	<u>40,404</u>	<u>41,165</u>	<u>42,933</u>	<u>43,693</u>	<u>44,454</u>	<u>45,215</u>	<u>46,250</u>
<u>12</u>	<u>36,239</u>	<u>36,927</u>	<u>37,193</u>	<u>40,923</u>	<u>41,683</u>	<u>43,451</u>	<u>44,212</u>	<u>44,973</u>	<u>45,733</u>	<u>46,768</u>
<u>13</u>	<u>36,567</u>	<u>37,255</u>	<u>37,521</u>	<u>41,441</u>	<u>42,202</u>	<u>43,970</u>	<u>44,730</u>	<u>45,491</u>	<u>46,252</u>	<u>47,287</u>
<u>14</u>	<u>36,895</u>	<u>37,583</u>	<u>37,849</u>	<u>41,960</u>	<u>42,720</u>	<u>44,488</u>	<u>45,249</u>	<u>46,010</u>	<u>46,770</u>	<u>47,805</u>
<u>15</u>	<u>37,223</u>	<u>37,911</u>	<u>38,177</u>	<u>42,478</u>	<u>43,239</u>	<u>45,007</u>	<u>45,767</u>	<u>46,528</u>	<u>47,289</u>	<u>48,324</u>

<u>16</u>	<u>37,551</u>	<u>38,239</u>	<u>38,505</u>	<u>42,997</u>	<u>43,757</u>	<u>45,525</u>	<u>46,286</u>	<u>47,047</u>	<u>47,807</u>	<u>48,842</u>
<u>17</u>	<u>37,879</u>	<u>38,568</u>	<u>38,833</u>	<u>43,515</u>	<u>44,276</u>	<u>46,044</u>	<u>46,805</u>	<u>47,565</u>	<u>48,326</u>	<u>49,361</u>
<u>18</u>	<u>38,207</u>	<u>38,896</u>	<u>39,162</u>	<u>44,034</u>	<u>44,795</u>	<u>46,562</u>	<u>47,323</u>	<u>48,084</u>	<u>48,845</u>	<u>49,880</u>
<u>19</u>	<u>38,535</u>	<u>39,224</u>	<u>39,490</u>	<u>44,552</u>	<u>45,313</u>	<u>47,081</u>	<u>47,842</u>	<u>48,602</u>	<u>49,363</u>	<u>50,398</u>
<u>20</u>	<u>38,863</u>	<u>39,552</u>	<u>39,818</u>	<u>45,071</u>	<u>45,832</u>	<u>47,599</u>	<u>48,360</u>	<u>49,121</u>	<u>49,882</u>	<u>50,917</u>
<u>21</u>	<u>39,192</u>	<u>39,880</u>	<u>40,146</u>	<u>45,589</u>	<u>46,350</u>	<u>48,118</u>	<u>48,879</u>	<u>49,639</u>	<u>50,400</u>	<u>51,435</u>
<u>22</u>	<u>39,520</u>	<u>40,208</u>	<u>40,474</u>	<u>46,108</u>	<u>46,869</u>	<u>48,636</u>	<u>49,397</u>	<u>50,158</u>	<u>50,919</u>	<u>51,954</u>
<u>23</u>	<u>39,848</u>	<u>40,536</u>	<u>40,802</u>	<u>46,627</u>	<u>47,387</u>	<u>49,155</u>	<u>49,916</u>	<u>50,676</u>	<u>51,437</u>	<u>52,472</u>
<u>24</u>	<u>40,176</u>	<u>40,864</u>	<u>41,130</u>	<u>47,145</u>	<u>47,906</u>	<u>49,674</u>	<u>50,434</u>	<u>51,195</u>	<u>51,956</u>	<u>52,991</u>
<u>25</u>	<u>40,504</u>	<u>41,192</u>	<u>41,458</u>	<u>47,664</u>	<u>48,424</u>	<u>50,192</u>	<u>50,953</u>	<u>51,714</u>	<u>52,474</u>	<u>53,509</u>
<u>26</u>	<u>40,832</u>	<u>41,520</u>	<u>41,786</u>	<u>48,182</u>	<u>48,943</u>	<u>50,711</u>	<u>51,471</u>	<u>52,232</u>	<u>52,993</u>	<u>54,028</u>
<u>27</u>	<u>41,160</u>	<u>41,848</u>	<u>42,114</u>	<u>48,701</u>	<u>49,461</u>	<u>51,229</u>	<u>51,990</u>	<u>52,751</u>	<u>53,511</u>	<u>54,546</u>
<u>28</u>	<u>41,488</u>	<u>42,177</u>	<u>42,442</u>	<u>49,219</u>	<u>49,980</u>	<u>51,748</u>	<u>52,508</u>	<u>53,269</u>	<u>54,030</u>	<u>55,065</u>
<u>29</u>	<u>41,816</u>	<u>42,505</u>	<u>42,771</u>	<u>49,738</u>	<u>50,498</u>	<u>52,266</u>	<u>53,027</u>	<u>53,788</u>	<u>54,548</u>	<u>55,583</u>
<u>30</u>	<u>42,144</u>	<u>42,833</u>	<u>43,099</u>	<u>50,256</u>	<u>51,017</u>	<u>52,785</u>	<u>53,545</u>	<u>54,306</u>	<u>55,067</u>	<u>56,102</u>
<u>31</u>	<u>42,473</u>	<u>43,161</u>	<u>43,427</u>	<u>50,775</u>	<u>51,536</u>	<u>53,303</u>	<u>54,064</u>	<u>54,825</u>	<u>55,585</u>	<u>56,620</u>
<u>32</u>	<u>42,801</u>	<u>43,489</u>	<u>43,755</u>	<u>51,293</u>	<u>52,054</u>	<u>53,822</u>	<u>54,583</u>	<u>55,343</u>	<u>56,104</u>	<u>57,139</u>
<u>33</u>	<u>43,129</u>	<u>43,817</u>	<u>44,083</u>	<u>51,812</u>	<u>52,573</u>	<u>54,340</u>	<u>55,101</u>	<u>55,862</u>	<u>56,623</u>	<u>57,658</u>
<u>34</u>	<u>43,457</u>	<u>44,145</u>	<u>44,411</u>	<u>52,330</u>	<u>53,091</u>	<u>54,859</u>	<u>55,620</u>	<u>56,380</u>	<u>57,141</u>	<u>58,176</u>
<u>35</u>	<u>43,785</u>	<u>44,473</u>	<u>44,739</u>	<u>52,849</u>	<u>53,610</u>	<u>55,377</u>	<u>56,138</u>	<u>56,899</u>	<u>57,660</u>	<u>58,695</u>

(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-	PAY GRADE-							
Exp-	A	B	C	D	E	F	G	H-
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402
10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435

11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500
13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533
14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330
38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

YearsPAY GRADEExp.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1,885</u>	<u>1,906</u>	<u>1,948</u>	<u>2,001</u>	<u>2,054</u>	<u>2,117</u>	<u>2,149</u>	<u>2,222</u>
<u>1</u>	<u>1,917</u>	<u>1,939</u>	<u>1,980</u>	<u>2,033</u>	<u>2,087</u>	<u>2,150</u>	<u>2,181</u>	<u>2,255</u>

<u>2</u>	<u>1,950</u>	<u>1,971</u>	<u>2,013</u>	<u>2,066</u>	<u>2,119</u>	<u>2,182</u>	<u>2,214</u>	<u>2,287</u>
<u>3</u>	<u>1,982</u>	<u>2,004</u>	<u>2,046</u>	<u>2,099</u>	<u>2,152</u>	<u>2,215</u>	<u>2,247</u>	<u>2,320</u>
<u>4</u>	<u>2,015</u>	<u>2,037</u>	<u>2,078</u>	<u>2,131</u>	<u>2,184</u>	<u>2,248</u>	<u>2,279</u>	<u>2,354</u>
<u>5</u>	<u>2,048</u>	<u>2,069</u>	<u>2,111</u>	<u>2,164</u>	<u>2,217</u>	<u>2,280</u>	<u>2,312</u>	<u>2,386</u>
<u>6</u>	<u>2,080</u>	<u>2,102</u>	<u>2,145</u>	<u>2,197</u>	<u>2,250</u>	<u>2,313</u>	<u>2,345</u>	<u>2,419</u>
<u>7</u>	<u>2,114</u>	<u>2,134</u>	<u>2,177</u>	<u>2,229</u>	<u>2,282</u>	<u>2,346</u>	<u>2,377</u>	<u>2,452</u>
<u>8</u>	<u>2,147</u>	<u>2,167</u>	<u>2,210</u>	<u>2,262</u>	<u>2,315</u>	<u>2,378</u>	<u>2,410</u>	<u>2,484</u>
<u>9</u>	<u>2,179</u>	<u>2,200</u>	<u>2,243</u>	<u>2,296</u>	<u>2,348</u>	<u>2,411</u>	<u>2,442</u>	<u>2,517</u>
<u>10</u>	<u>2,212</u>	<u>2,233</u>	<u>2,275</u>	<u>2,328</u>	<u>2,380</u>	<u>2,445</u>	<u>2,476</u>	<u>2,550</u>
<u>11</u>	<u>2,245</u>	<u>2,266</u>	<u>2,308</u>	<u>2,361</u>	<u>2,413</u>	<u>2,477</u>	<u>2,509</u>	<u>2,582</u>
<u>12</u>	<u>2,277</u>	<u>2,299</u>	<u>2,340</u>	<u>2,394</u>	<u>2,447</u>	<u>2,510</u>	<u>2,541</u>	<u>2,615</u>
<u>13</u>	<u>2,310</u>	<u>2,331</u>	<u>2,373</u>	<u>2,426</u>	<u>2,479</u>	<u>2,542</u>	<u>2,574</u>	<u>2,648</u>
<u>14</u>	<u>2,343</u>	<u>2,364</u>	<u>2,406</u>	<u>2,459</u>	<u>2,512</u>	<u>2,575</u>	<u>2,607</u>	<u>2,680</u>
<u>15</u>	<u>2,375</u>	<u>2,397</u>	<u>2,438</u>	<u>2,491</u>	<u>2,544</u>	<u>2,608</u>	<u>2,639</u>	<u>2,713</u>
<u>16</u>	<u>2,408</u>	<u>2,429</u>	<u>2,471</u>	<u>2,524</u>	<u>2,577</u>	<u>2,640</u>	<u>2,672</u>	<u>2,746</u>
<u>17</u>	<u>2,440</u>	<u>2,462</u>	<u>2,505</u>	<u>2,557</u>	<u>2,610</u>	<u>2,673</u>	<u>2,705</u>	<u>2,779</u>
<u>18</u>	<u>2,473</u>	<u>2,495</u>	<u>2,537</u>	<u>2,589</u>	<u>2,642</u>	<u>2,706</u>	<u>2,737</u>	<u>2,812</u>
<u>19</u>	<u>2,507</u>	<u>2,527</u>	<u>2,570</u>	<u>2,622</u>	<u>2,675</u>	<u>2,738</u>	<u>2,770</u>	<u>2,844</u>
<u>20</u>	<u>2,539</u>	<u>2,560</u>	<u>2,603</u>	<u>2,656</u>	<u>2,708</u>	<u>2,771</u>	<u>2,803</u>	<u>2,878</u>
<u>21</u>	<u>2,572</u>	<u>2,592</u>	<u>2,635</u>	<u>2,688</u>	<u>2,740</u>	<u>2,804</u>	<u>2,835</u>	<u>2,912</u>
<u>22</u>	<u>2,605</u>	<u>2,626</u>	<u>2,668</u>	<u>2,721</u>	<u>2,773</u>	<u>2,837</u>	<u>2,869</u>	<u>2,944</u>
<u>23</u>	<u>2,637</u>	<u>2,659</u>	<u>2,701</u>	<u>2,754</u>	<u>2,807</u>	<u>2,871</u>	<u>2,903</u>	<u>2,978</u>
<u>24</u>	<u>2,670</u>	<u>2,691</u>	<u>2,733</u>	<u>2,786</u>	<u>2,839</u>	<u>2,905</u>	<u>2,936</u>	<u>3,012</u>
<u>25</u>	<u>2,703</u>	<u>2,724</u>	<u>2,766</u>	<u>2,819</u>	<u>2,873</u>	<u>2,937</u>	<u>2,970</u>	<u>3,044</u>
<u>26</u>	<u>2,735</u>	<u>2,757</u>	<u>2,798</u>	<u>2,853</u>	<u>2,907</u>	<u>2,971</u>	<u>3,002</u>	<u>3,078</u>
<u>27</u>	<u>2,768</u>	<u>2,789</u>	<u>2,831</u>	<u>2,885</u>	<u>2,939</u>	<u>3,003</u>	<u>3,036</u>	<u>3,111</u>
<u>28</u>	<u>2,801</u>	<u>2,822</u>	<u>2,865</u>	<u>2,919</u>	<u>2,973</u>	<u>3,037</u>	<u>3,070</u>	<u>3,145</u>
<u>29</u>	<u>2,833</u>	<u>2,856</u>	<u>2,898</u>	<u>2,951</u>	<u>3,006</u>	<u>3,071</u>	<u>3,102</u>	<u>3,179</u>
<u>30</u>	<u>2,867</u>	<u>2,888</u>	<u>2,932</u>	<u>2,985</u>	<u>3,039</u>	<u>3,103</u>	<u>3,136</u>	<u>3,212</u>
<u>31</u>	<u>2,900</u>	<u>2,922</u>	<u>2,966</u>	<u>3,019</u>	<u>3,073</u>	<u>3,137</u>	<u>3,170</u>	<u>3,245</u>
<u>32</u>	<u>2,934</u>	<u>2,955</u>	<u>2,998</u>	<u>3,052</u>	<u>3,105</u>	<u>3,171</u>	<u>3,202</u>	<u>3,279</u>
<u>33</u>	<u>2,968</u>	<u>2,988</u>	<u>3,032</u>	<u>3,086</u>	<u>3,139</u>	<u>3,203</u>	<u>3,236</u>	<u>3,312</u>
<u>34</u>	<u>3,000</u>	<u>3,022</u>	<u>3,066</u>	<u>3,120</u>	<u>3,173</u>	<u>3,237</u>	<u>3,270</u>	<u>3,345</u>
<u>35</u>	<u>3,034</u>	<u>3,056</u>	<u>3,098</u>	<u>3,152</u>	<u>3,205</u>	<u>3,271</u>	<u>3,303</u>	<u>3,379</u>
<u>36</u>	<u>3,068</u>	<u>3,089</u>	<u>3,132</u>	<u>3,186</u>	<u>3,240</u>	<u>3,304</u>	<u>3,337</u>	<u>3,411</u>
<u>37</u>	<u>3,100</u>	<u>3,123</u>	<u>3,166</u>	<u>3,220</u>	<u>3,274</u>	<u>3,338</u>	<u>3,370</u>	<u>3,445</u>
<u>38</u>	<u>3,134</u>	<u>3,155</u>	<u>3,198</u>	<u>3,252</u>	<u>3,306</u>	<u>3,371</u>	<u>3,403</u>	<u>3,479</u>

<u>39</u>	<u>3,168</u>	<u>3,189</u>	<u>3,232</u>	<u>3,286</u>	<u>3,340</u>	<u>3,404</u>	<u>3,437</u>	<u>3,511</u>
<u>40</u>	<u>3,200</u>	<u>3,223</u>	<u>3,265</u>	<u>3,319</u>	<u>3,374</u>	<u>3,438</u>	<u>3,470</u>	<u>3,545</u>

(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
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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 discussion,

Senator Plymale arose to a point of order stating the Senate decorum was in contravention to Senate Rule 8 which states in part “Every member desiring to speak shall . . . [avoid] all indecorous or disrespectful language. The presiding officer may recognize the member by name; but no member in debate or remarks shall designate another by name.”

Which point of order, the President ruled well taken.

Following extended discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: Plymale—1.

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

The bill (Com. Sub. for S. B. 451), as amended, was then ordered to engrossment and third reading.

**Eng. House Bill 2462**, Issuing a certificate to correctional employees to carry firearms.

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

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill 409** (*Permitting third-party ownership of renewable and alternative generating facilities*).

On motion of Senator Takubo, at 5:54 p.m., the Senate adjourned until Monday, February 4, 2019, at 11 a.m.

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## MONDAY, FEBRUARY 4, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by Seth Polk, Lead Pastor, Cross Lanes Baptist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chandler Swope, a senator from the sixth district.

Pending the reading of the Journal of Friday, February 1, 2019,

At the request of Senator Beach, 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 communication from a state agency as required by the provisions of law:

Administration, Department of (Comprehensive Procurement Program for Recycled Products) (§22-15A-21)

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 255**, Relating to Emergency Medical Services Advisory Committee.

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 2001**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended,

relating to exempting social security benefits from personal income tax; clarifying that tier one railroad retirement benefits are not subject to personal income tax; specifying an effective date; and removing obsolete language.

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 2474**—A Bill to amend and reenact §33-7-9 of the Code of West Virginia, 1931, as amended, relating to a reserving methodology for health insurance and annuity contracts; describing how the calendar year statutory valuation interest rate should be calculated regarding certain annuities and guaranteed interest contracts; and prescribing the minimum standard of valuation for health insurance contracts.

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 2476**—A Bill to amend and reenact §33-6-33 of the Code of West Virginia, 1931, as amended, relating to the valuation of a motor vehicle involved in an insurance claim; requiring that an amount equal to the consumers sales tax applicable to the sale of motor vehicles be added to a cash settlement arising from a total loss of a motor vehicle.

Referred to the Committee on Banking and Insurance.

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 2478**—A Bill to amend and reenact §47-11A-6 and §47-11A-9 of the Code of West Virginia, 1931, as amended, all related to costs and damages under the Fair Trade Practices 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 2480**—A Bill to amend and reenact §33-27-2 and §33-27-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-27-6b, all relating to the regulation of an internationally active insurance group; defining group-wide supervisor and internationally active insurance group; providing authority for the insurance commissioner to act as a group-wide supervisor for an internationally active insurance group; permitting the insurance commissioner to acknowledge another regulatory official as the group-wide supervisor for an internationally active insurance group under certain criteria; requiring insurance companies to submit information necessary for the insurance commissioner to determine whether he or she may act as the group-wide supervisor for an internationally active insurance group; authorizing specific regulatory actions when the insurance commissioner is acting as a group-wide supervisor for an internationally active insurance group; allowing the insurance commissioner to enter into agreements with insurers regarding his or her role as group-wide supervisor for an internationally active insurance group; permitting the promulgation of rules; making insurers liable for the reasonable expenses of the insurance commissioner's participation as a group-wide supervisor for an internationally active insurance group; and rendering information provided by insurers to the insurance commissioner in connection with the commissioner's role as a group-wide supervisor for an internationally active insurance group as confidential and privileged.

Referred to the Committee on Banking and Insurance.

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 2524**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a two new sections, designated §30-5-35 and §30-5-36, all relating to pharmacist dispensing of drugs; permitting a pharmacist to dispense an amount equal to the prescription limit; permitting a pharmacist to provide an equal amount of drugs based upon dosage; and permitting a pharmacist to refill a prescription in an emergency.

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 2679**—A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended, relating to state issued identification cards; and permitting the issuance of a state issued identification card without a photo on the card, based upon certification that taking a photograph would violate religion tenet or religious belief.

Referred to the Committee on the Judiciary.

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

**Senate Bill 127**, Relating to parole officers' duties to perform alcohol and drug testing of litigants.

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

**Com. Sub. for Senate Bill 127** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-6 of the Code of West Virginia, 1931, as amended, relating to the duty of probation officers to perform such alcohol and drug testing of

litigants as directed by the circuit and family courts; and reporting results to the court.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bills 160, 161, 162, 163, 164, 165, 166, and 167**, DEP rule relating to emission standards for hazardous air pollutants.

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

**Com. Sub. for Senate Bill 163** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating generally to authorizing agencies under the Department of Environmental Protection to promulgate rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for determining conformity of transportation plans,



programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Laws to applicable air quality implementation plans (transportation conformity); authorizing the Department of Environmental Protection to promulgate a legislative rule relating to provisions for determination of compliance with air quality management rules; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to cross-state air pollution rule to control annual nitrogen oxides emissions, annual sulfur dioxide emissions, and ozone season nitrogen oxides emissions; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Jeffries, Weld, Boso, and Lindsay:**

**Senate Bill 512**—A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §47-26-2a, all relating to the regulation of pawnbrokers; removing an exception for certain transactions from the report required of all pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor

offenses for certain violations; and increasing the penalties for existing criminal offenses related to pawnbrokers.

Referred to the Committee on the Judiciary.

**By Senator Cline:**

**Senate Bill 513**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to requiring satisfactory completion of a class in personal finance to graduate from high school.

Referred to the Committee on Education.

**By Senators Sypolt, Stollings, Boso, and Maroney:**

**Senate Bill 514**—A Bill to amend and reenact §48-27-802 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-27-803, all relating to victims of domestic violence and their right to know the place of employment and residence of their assailant; and requiring that the West Virginia State Police shall maintain a registry of this information.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Stollings, and Boso:**

**Senate Bill 515**—A Bill to amend and reenact §48-27-207 of the Code of West Virginia, 1931, as amended, relating to requiring a licensed program for victims of domestic violence to provide specific services to aid victims of domestic violence and their children; and requiring that the Family Protection Services Board propose rules to implement program.

Referred to the Committee on the Judiciary.

**By Senators Boso, Swope, and Maroney:**

**Senate Bill 516**—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to the payment of attorney fees in subsidized adoptions or guardianships directly to the attorney.

Referred to the Committee on the Judiciary.

**By Senators Sypolt and Boso:**

**Senate Bill 517**—A Bill to amend and reenact §20-2-15 of the Code of West Virginia, 1931, as amended, relating to allowing the owner or lessee of the lands on which damage to crops is done to sell a crop damage permit.

Referred to the Committee on Natural Resources.

**By Senators Maroney, Plymale, Stollings, Tarr, Woelfel, Takubo, and Swope:**

**Senate Bill 518**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-417, relating to restricting the sale and trade of dextromethorphan; defining terms; setting age limits; requiring proof of age from a purchaser unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age; and providing for a misdemeanor penalty.

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

**By Senators Maroney, Plymale, Stollings, Woelfel, Takubo, Boso, and Swope:**

**Senate Bill 519**—A Bill to amend and reenact §24-6-5 of the Code of West Virginia, 1931, as amended, relating to requiring persons employed to dispatch emergency calls in county emergency dispatch centers to complete a training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation; requiring training to be completed by a certain date; and requiring calls to be transferred to call center in certain circumstances.

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

**By Senators Maroney, Plymale, Stollings, Tarr, Woelfel, Takubo, Boso, Baldwin, Hardesty, and Swope:**

**Senate Bill 520**—A Bill to amend and reenact §16-5T-3 and §16-5T-4 of the Code of West Virginia, 1931, as amended, all

relating to drug overdoses; requiring entities report drug overdoses; requiring details for drug overdose reports; and making grammatical corrections.

Referred to the Committee on Health and Human Resources.

Senators Beach, Baldwin, Clements, Cline, Maynard, Plymale, Rucker, Smith, Woelfel, Hardesty, Sypolt, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Concurrent Resolution 22**—Urging the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States.

Whereas, The Framers of the Constitution of the United States of America intended that the Congress of the United States of America should be “dependent on the people alone” (James Madison, Federalist 52); and

Whereas, That dependency has evolved from a dependency on the people alone to a dependency on powerful special interests, through campaigns or third-party groups, that has created a fundamental imbalance in our representative democracy; and

Whereas, Americans across the political spectrum agree that elections in the United States of America should be free from the disproportional influence of special interests and fair enough that any citizen can be elected into office; and

Whereas, The Constitution of the State of West Virginia states that “all power is vested in, and consequently derived from the people”, that “government is instituted for [their] common benefit”, and the people have the inalienable and indefeasible right to alter or reform their government (Article III, Sections 2 & 3); and

Whereas, Article V of the United States Constitution requires Congress to call a convention for proposing amendments to the

federal Constitution on the application of two-thirds legislatures of the several states; and

Whereas, The West Virginia Legislature perceives the need for an amendments convention in order to restore balance and integrity to our elections by proposing an amendment to the federal Constitution that will permanently protect free and fair elections in America by addressing, inter alia, issues raised by the decisions of the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010) 130 S. Ct. 876 and related cases and events, and desires that said convention should be so limited; and

Whereas, The State of West Virginia desires that the delegates to said convention shall be comprised equally of individuals currently elected to state and local office, or be selected by election, in each Congressional district for the purpose of serving as delegates, though all individuals elected or appointed to federal office now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed herein; and

Whereas, The State of West Virginia intends that this be a continuing application considered together with applications calling for a convention passed in the 2013-2014 Vermont Legislature as R454, the 2013-2014 California Legislature as Resolution Chapter 77, the 98th Illinois General Assembly as SJR 42, the 2014-2015 New Jersey Legislature as SCR 132, the 2015-2016 Rhode Island Legislature as HR 7670 and SR 2589, and all others passed, pending, and future applications until such time as two thirds of the several states have applied for a convention for a similar purpose and said convention is convened by Congress; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States; and, be it

*Further Resolved*, That the people of the State of West Virginia speaking through its Legislature, and pursuant to Article V of the United States Constitution, hereby apply to the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections as described herein, as soon as two thirds of the several states have applied for a convention for a similar purpose; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President of the United States; the Vice President of the United States in his capacity as presiding officer of the United States Senate; the Speaker of the United States House of Representatives; the Minority Leader of the United States House of Representatives; the President Pro Tempore of the United States Senate; to each Senator and Representative from West Virginia in the Congress of the United States with the respectful request that the full and complete text of this resolution be printed in the Congressional Record; to the presiding officers of each legislative body of each of the several states, requesting the cooperation of the states in issuing an application compelling Congress to call a convention for proposing an amendment pursuant to Article V of the U. S. Constitution.

Which, under the rules, lies over one day.

Senators Beach, Woelfel, Stollings, Baldwin, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Concurrent Resolution 23**—Requesting the Division of Highways name bridge number 31-7-7.58 (31A311), locally known as Wana Bridge, carrying WV 7 over West Virginia Fork of Dunkard Creek in Monongalia County, the “Jeffrey Alan Clovis Memorial Bridge”.

Whereas, Jeffrey Alan Clovis was born January 29, 1968, and was the first child of Donald Charles Clovis and Linda Kay Tucker of Morgantown, West Virginia, and stepson to Donna Clovis and Darrell Tucker; and

Whereas, Jeffrey Alan Clovis was a 1986 graduate of Clay-Battelle High School, a member of the Loyal Order of Moose in Waynesburg, Pennsylvania, and a member of the Kingdom Evangelical Church of Westover, West Virginia; and

Whereas, Jeffrey Alan Clovis was a 27-year veteran towing operator, receiving a certification of achievement from the Towing Recovery Association of America and was certified as a Nationally Certified Master Tower; and

Whereas, Jeffrey Alan Clovis was known for his good nature and ability to make others feel comfortable in any situation while remaining vigilant in his professional responsibilities; and

Whereas, Jeffrey Alan Clovis of Wadestown, West Virginia, tragically lost his life while responding to a service call along Interstate 79 on August 9, 2016; and

Whereas, Jeffrey Alan Clovis shall be remembered on the Wall of Fallen Heroes at the International Towing and Recovery Hall of Fame in Chattanooga, Tennessee; and

Whereas, Jeffrey Alan Clovis is survived by his wife, Sheila Clovis; daughter, Jennifer Clovis; step-daughter, Skyler Johnson; brother, Brent Clovis; and step-sister, Michelle Yost; and

Whereas, It is fitting that an enduring memorial be established to commemorate Jeffrey Alan Clovis and his contributions to our state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 31-7-7.58 (31A311), locally known as Wana Bridge, carrying WV 7 over West Virginia Fork of Dunkard Creek in Monongalia County, the “Jeffrey Alan Clovis 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 “Jeffrey Alan Clovis 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.

At the request of Senator Beach, 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 Swope, Woelfel, Stollings, and Boso offered the following resolution:

**Senate Concurrent Resolution 24**—Requesting the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens Memorial Bridge”.

Whereas, Hazel Dickens was born in Montcalm on June 1, 1925, as the eighth child of Sarah (Simkins) Dickens and Pastor H. N. Dickens, a Primitive Baptist Church minister and logging truck driver; and

Whereas, When she was 16, Hazel, along with her parents and some of her siblings, moved to Baltimore, Maryland, to be close to one of her brothers, who was there being treated for tuberculosis. She worked at several jobs, including waitress, store clerk, factory worker, and other odd jobs. Hazel spent her evenings playing double-bass for hillbilly and bluegrass bands in Baltimore and writing songs based on her memories of growing up in the mountains of southern West Virginia; and

Whereas, Eventually, she moved to Washington, D.C. and formed a musical partnership with Alice Gerrard. Hazel drew upon the Primitive Baptist musical tradition to develop her unique vocal style. Although slight in physical stature, Hazel sang with an



unamplified voice that was strong, loud, and powerful enough to keep the faithful seated in rear pews wide awake. At the same time, the themes of the songs she authored told of the plight of working men and women, the tragedy of poverty, the strength of family love, and the power of faith; and

Whereas, In a performing career that spanned nine decades, from 1936 to her final performance on March 16, 2011, Hazel put her heart into her music and maintained her steadfast love for her West Virginia roots. She had a profound influence on other female vocalists, including Alison Krauss, Emmylou Harris, and the Judds. She also carried the story of the plight of coal miners through four songs in the soundtrack of the 1976 Academy Award-winning documentary, Harlan County USA, and sang Beautiful Hills of Galilee in a powerful graveyard scene in the 1987 movie, Matewan; and

Whereas, Hazel Dickens traveled to venues around the world where she performed to great acclaim and, following her passing on April 22, 2011 at the age of 85, her family brought her back home to Mercer County and her final resting place at Roselawn Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate Hazel Dickens and her contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens 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 “Hazel Dickens Memorial Bridge”; and, be

*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.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 100**, Increasing court fees to fund law-enforcement standards training and expenses.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, 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. 100) 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 324**, Relating to Commissioner of Agriculture 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, 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. 324) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 324) 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 357**, Relating generally to Division of Administrative 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 357) 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 358,** Exempting Purchasing Division purchases for equipment to maintain security at state 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 358) 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 361,** Relating to Public Defender 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, 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. 361) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 361) 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 369**, Relating to generic drug products.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, 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. 369) 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 373**, Relating to financial responsibility of inmates.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 373) passed.

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

**Eng. Com. Sub. for Senate Bill 373**—A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates generally; and authorizing the commissioner of corrections to

deduct money from court-ordered obligations, civil judgments and settlements, including child support, restitution, spousal support, and court costs prior to depositing such moneys in the inmate's account.

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

**Eng. Senate Bill 377**, Relating to minimum wage and maximum hour standards.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

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

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. 377) 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 389**, Allowing developmentally disabled person purchase base hunting license.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, 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. 389) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 389) 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 398**, Relating to compensation for senior judges.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,



Stollings, Swope, Sypolt, Takubo, Tarr, 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. 398) 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 399**, Relating to compensation for senior magistrates.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 399) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, 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. 399) takes effect from passage.

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

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the consideration of

**Eng. Com. Sub. for Senate Bill 398**, Relating to compensation for senior judges.

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Trump moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 398) 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 451**, Comprehensive education reform.

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

Pending extended discussion,

(Senator Blair in the Chair.)

Pending discussion,

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

Pending extended discussion,

(Senator Blair in the Chair.)

Pending discussion,

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

Pending discussion,

Senator Prezioso arose to a point of order stating the debate was now in contravention of Senate Rule 8 which states in part “Every member desiring to speak shall . . . [confine] oneself to the question under debate . . .” and not call out members for remarks they made previously during the debate.

Which point of order, the President ruled well taken.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 451 pass?”

Senator Roberts 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 is pastor at a church with a Christian academy as well as being an administrator and a teacher at the same academy.

The Chair replied that any impact on Senator Roberts would be as a member of a class of persons and that he would be required to vote.

Senator Palumbo requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Palumbo would be as a member of a class of persons and that he would be required to vote.

Senator Mann 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 his wife is an administrator in the school system.

The Chair replied that any impact on Senator Mann 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: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

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. 451) passed.

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

**Eng. Com. Sub. for Senate Bill 451**—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of the West Virginia, 1931, as amended; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated section §18-1-5; to amend and reenact §18-5-16, §18-5-16a, §18-5-18b, §18-5-32, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-45a; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11, §18-5G-12, §18-5G-13, §18-5G-14, and §18-5G-15; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9, and §18-9A-12 of said code; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, and §18-31-9; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, §18A-4-9, and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4A-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; allowing public charter schools to participate in the Public Employees Insurance program; allowing county boards of education to increase their regular levy rates subject to voter approval; creating personal income tax credits for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs; declaring nonseverability of act; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; modifying the job duties and responsibilities of school counselors; providing that central office administrators, supervisors, and directors serve at the will and pleasure of the superintendent; prohibiting accrued or equivalent instructional time to cancel days lost and the delivery of instruction through alternative methods from being used to cancel

days lost due to concerted work stoppage or strike; requiring withholding of pay for each day a school is closed due to a concerted work stoppage or strike; prohibiting participation in any extracurricular activity during any day canceled due to a concerted work stoppage or strike; requiring teacher recommendation be primary consideration when considering student promotion; authorizing the establishment of charter schools; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; limiting liability of authorizer, county boards of education, and the State; requiring an oversight fee be paid to authorizer; providing for virtual charter schools; establishing requirements for charter school contracts and the process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; creating the West Virginia Charter Public School Commission; establishing membership of the commission; providing for appointment of members; setting meeting requirements; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; setting forth prohibitions for public charter schools; requiring State Board of Education rules relating to public charter school funding, to clarify certain requirements, and to address certain unforeseen issues; allowing charter schools access to public facilities; establishing reporting requirements; allowing charter schools to elect to participate in the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; modifying the contact requirements for a student's guardians upon accrual of unexcused absences; including professional personnel providing direct social and emotional support services to students within the definition of "professional student support personnel"; modifying definition of "net enrollment" to promote establishment of Advanced Career Education programs and establish a minimum net enrollment level of 1,400 for purpose of determining basic foundation program; clarifying definition of "levies for general current expense purposes"; modifying allowance for professional

student support personnel; increasing the county allowance for current expense to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; setting local share maximum at 2015-2016 level; including public charter schools in provisions pertaining to an appropriation to serve certain exceptional children; enacting an Educational Savings Account Program; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA) which includes depositing funds into an ESA to pay qualifying education expenses; establishing ESA application requirements; setting forth responsibilities of the Treasurer; establishing a Parent Review Committee; providing eligibility requirements applicable to education service providers; providing for the responsibilities of resident school districts; addressing legal proceedings; increasing salaries for teachers; increasing salaries for certain classroom teachers providing math instruction; requiring that certain classroom teachers providing math instruction and who complete a specialized mathematics course be paid a one-time salary supplement; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity; allowing counties to provide additional compensation to certain teachers; permitting a county board of education to base its reductions in force determinations on an individual's qualifications as defined in county board policy; modifying provisions pertaining to the preferred recall list and posting of position openings; increasing salaries for service personnel; prohibiting an employee's pay from being withheld or deducted by a county board for the purpose of paying dues to certain employee organizations unless the employee within the last year has submitted a request for the withholding or deduction; providing for accrual of personal leave at the end of each pay period; requiring a bonus for classroom teachers who have not been absent for more than four days during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs as the Underwood-Smith Teaching Scholars Program; modifying program purpose to target certain academic disciplines in a geographic area of critical need; requiring recipients receive additional academic support and training from certain mentors; requiring each recipient

to be distinguished as an “Underwood-Smith Teaching Scholar”; modifying award eligibility, service agreement, and renewal criteria to reflect modified program purpose; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award and limiting tuition and fee charges for program recipients; abolishing the Underwood-Smith Teacher Loan Assistance Program; requiring at least annual written notice of Board of Risk and Insurance Management insurance coverages by county boards to employee insureds; and allowing public charter schools to obtain insurance coverage from the Board of Risk and Insurance Management.

*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. House Bill 2462,** Issuing a certificate to correctional employees to carry firearms.

Having been read a second time on Friday, February 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, 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.

At the request of Senator Takubo, and by unanimous consent, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 154,** Using school facilities for funeral and memorial services for certain community members.

**Com. Sub. for Senate Bill 157,** Authorizing Department of Administration promulgate legislative rules.

**Com. Sub. for Senate Bill 175,** Authorizing DHHR promulgate legislative rules.



**Senate Bill 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

**Senate Bill 343**, Relating to review and approval of state property leases.

**Com. Sub. for Senate Bill 387**, Relating generally to extradition.

And,

**Com. Sub. for Senate Bill 392**, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 475** (*Permitting persons over age 21 operate or be passenger without helmet on motorcycle*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 2:42 p.m., the Senate adjourned until tomorrow, Tuesday, February 5, 2019, at 11 a.m.

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TUESDAY, FEBRUARY 5, 2019

The Senate met at 11:10 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 Paul Hardesty, a senator from the seventh district.

Pending the reading of the Journal of Monday, February 4, 2019,

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.

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. Senate Bill 27**, Removing restrictions on where certain traditional lottery games may be played.

On motion of Senator Takubo, 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 nine, line twelve, after the words “the winner” by inserting the words “except as authorized under §29-22D-1 *et seq.* of this code”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 27**—A Bill to amend and reenact §29-22-9 of the Code of West Virginia, 1931, as amended, relating to types of lottery games to be to be conducted by the state lottery commission; removing restrictions on where certain traditional lottery games may be played; and conforming language to recently enacted legislation.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 27, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Plymale, Prezioso, Roberts, and Unger—5.

Absent: Boso and Mann—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. 27) 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2607**—A Bill to repeal §16-5C-16 and §16-5C-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5C-2, §16-5C-4, §16-5C-5, §16-5C-6, §16-5C-7, §16-5C-8, §16-5C-9, §16-5C-9a, §16-5C-10, §16-5C-11, §16-5C-12, §16-5C-12a, §16-5C-13, §16-5C-14, §16-5C-15, §16-5C-18, §16-5C-20, §16-5C-21, and §16-5C-22 of said code, all relating to the licensure of nursing homes; repealing duplicative sections of code; defining terms; clarifying rule requirements; and clarifying enforcement action and due process procedures.

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 2612**—A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, to authorize that the Secretary of the Department of Health and Human Resources to propose rules related to source water protection plans; and staggering the timeframes of source water protection plan reporting.

Referred to the Committee on Government Organization.

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 16**, Authorizing expenditure of surplus funds by Wyoming County Commission.

**Com. Sub. for Senate Bill 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

And,

**Senate Bill 346**, Changing rate which certain judges are paid for mileage when traveling within state.

And reports the same back with the recommendation that they each 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 30**, Eliminating tax on annuity considerations collected by life insurer.

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

**Com. Sub. for Senate Bill 30** (originating in the Committee on Finance)—A Bill to amend and reenact §33-3-15 of the Code of West Virginia, 1931, as amended, relating to eliminating taxation on annuity considerations collected and received by a life insurer.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 74**, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

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

**Com. Sub. for Senate Bill 74** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §23-2-1a of the Code of West Virginia, 1931, as amended, relating to exempting nonpaid volunteers at ski areas from workers' compensation benefits; and updating and correcting state entity designations.

**Senate Bill 340**, Repealing obsolete provisions of WV Medical Professional Liability Insurance Joint Underwriting Association.

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

**Com. Sub. for Senate Bill 340** (originating in the Committee on Banking and Insurance)—A Bill to repeal §33-20F-1, §33-20F-1a, §33-20F-2, §33-20F-3, §33-20F-4, §33-20F-5, §33-20F-7, §33-20F-8, §33-20F-9, §33-20F-10, §33-20F-11, and §33-20F-12 of the Code of West Virginia, 1931, as amended, relating to obsolete provisions for the initial formation and operation of the West Virginia Physicians' Mutual Insurance Company.

And,

**Senate Bill 407**, Relating to abandonment and indication of ownership in property held by financial institution.

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

**Com. Sub. for Senate Bill 407** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to presumptions of abandonment and indication of ownership in demand, savings, and time deposits held by a financial institution.

With the recommendation that the three committee substitutes do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The bills (Com. Sub. for S. B. 74, 340, and 407), under the original double committee references, were then referred to the Committee on the Judiciary.

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 90** (originating in the Committee on Government Organization), Transferring Safety and Treatment Program from DHHR to DMV.

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

**Com. Sub. for Com. Sub. for Senate Bill 90** (originating in the Committee on Finance)—A Bill to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, all relating to the Safety and Treatment Program; transferring the program from the Department of Health and Human Resources to the Division of Motor Vehicles; adding grievance and appellate procedures and judicial review for individuals participating in the Safety and Treatment Program; authorizing the Commissioner of the Division of Motor Vehicles to promulgate rules to add such procedures and judicial review for participants; and amending internal code references.

With the recommendation that the committee substitute for committee substitute 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

**Senate Bill 237**, Improving ability of law enforcement to locate and return missing persons.

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

**Com. Sub. for Senate Bill 237** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§15-3C-1, §15-3C-2, §15-3C-3, §15-3C-4, §15-3C-5, §15-3C-6, §15-3C-7, and §15-3C-8, all relating generally to missing and unidentified persons investigations; establishing a short title; declaring legislative findings; defining terms; detailing actions that must be taken by law-enforcement agencies following the receipt of a missing persons complaint and during a missing persons investigation; detailing actions that must be taken by medical examiners and law-enforcement agencies related to identification of human remains; requiring the timely notification to family members of identification of human remains; requiring submission of information to certain national and state databases; and creating a misdemeanor offense of knowingly and willfully filing a false missing persons report with a law-enforcement agency.

And,

**Senate Bill 356**, Authorizing Division of Corrections and Rehabilitation to release certain information to county prosecutors and US Attorney.

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

**Com. Sub. for Senate Bill 356** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-1-7, relating generally to compliance with judicial discovery requirements in state and federal criminal cases; requiring the Department of Military Affairs and Public Safety and the agencies therewithin to provide to state and federal prosecutors information regarding certain past or present employees called as witnesses for the prosecution who have been previously determined to have engaged in conduct which might reasonably constitute impeachment evidence; requiring disclosure of the employee's name to the prosecuting attorney or United States attorney; limiting the department's or agency's responsibilities to those circumstances wherein the department or agency is on notice that the employee has been subpoenaed or is to be called as a prosecution witness; clarifying that the responsibilities imposed by this section upon the department or agency are met by transmittal



of the name to the prosecuting attorney or attorney for the United States; granting immunity to the department and agencies for good faith compliance with the requirement to provide information; and clarifying that the immunity granted by the section is in addition to any other immunities granted under law.

With the recommendation that the two committee substitutes 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

**Senate Bill 263**, Limiting number of days legislators may be compensated during extended and extraordinary sessions if budget bill not enacted.

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

**Com. Sub. for Senate Bill 263** (originating in the Committee on Finance)—A Bill to amend and reenact §4-2A-3 of the Code of West Virginia, 1931, as amended, relating to limiting the number of days members of the Legislature may receive compensation during an extended and extraordinary session if the budget bill has not been enacted.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 453**, Relating to background checks of certain financial institutions.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Cline, Plymale, and Maynard:**

**Senate Bill 521**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-8g, relating to agricultural education in high schools; and requiring that a West Virginia Department of Education approved agricultural education program be offered in every West Virginia high school.

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

**By Senators Smith, Maynard, Sypolt, Tarr, Plymale, Cline, Rucker, and Maroney:**

**Senate Bill 522**—A Bill to amend and reenact §11-13A-3 and §11-13A-3a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-

5, all relating to creating the Special Road Repair Fund for the maintenance and repair of the state's roads and highways; providing for two percent on the severance of natural gas and oil and coal, and other mining activities be transferred to the Special Road Repair Fund; requiring a one-time transfer of \$200 million from the Rainy Day Fund; requiring a think tank be formed; requiring rulemaking; and creating a procedure for contracting road maintenance projects.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senator Smith:**

**Senate Bill 523**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-8F-1, §61-8F-2, §61-8F-3, §61-8F-4, §61-8F-5, §61-8F-6, §61-8F-7, §61-8F-8, and §61-8F-9, all relating to prohibiting retailers from selling or leasing products that make content accessible on the Internet, unless the product contains an active and operating digital blocking capability that renders websites displaying obscene material or website that facilitates human trafficking inaccessible by default; defining terms; establishing a fee; creating a special fund; designating how moneys from the fund may be spent; providing for injunctive relief and civil actions; creating a duty for organization to report; establishing an affirmative defense; establishing criminal penalties; providing exemptions; and establishing conditions upon which law would become effective.

Referred to the Committee on the Judiciary.

**By Senator Azinger:**

**Senate Bill 524**—A Bill to amend and reenact §33-17A-3 of the Code of West Virginia, 1931, as amended, relating to definition of terms.

Referred to the Committee on Banking and Insurance.

**By Senators Boso and Woelfel:**

**Senate Bill 525**—A Bill to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §62-7-10a, all relating to requiring a form for certified commitment order to the Division

of Corrections and Rehabilitation; requiring a form for commitments to prisons; requiring a form for commitments from magistrate or circuit courts to jails; clarifying the costs of incarceration; and clarifying the method of transmittal of commitment orders.

Referred to the Committee on the Judiciary.

**By Senators Boso, Sypolt, Facemire, Jeffries, Woelfel, Tarr, Plymale, Lindsay, Cline, Hardesty, Beach, Roberts, Swope, Prezioso, Maroney, and Hamilton:**

**Senate Bill 526**—A Bill to amend and reenact §29-3-12 of the Code of West Virginia, 1931, as amended, relating to authorizing any West Virginia State Police officer, natural resources police officer, or any county or municipal law-enforcement officer to assist the State Fire Marshal or any of his or her employees in any duties for which the State Fire Marshal has jurisdiction; and authorizing the State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal to carry a firearm in the course of official duties.

Referred to the Committee on the Judiciary.

**By Senators Smith and Beach:**

**Senate Bill 527**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-9b, relating to the termination, expiration, or cancellation of oil or natural gas leases; providing a requirement for a lessee to execute and deliver to the lessor, within a specified time and without cost, a recordable release for terminated, expired, or canceled oil or natural gas leases; providing for a procedure by which a lessor may serve notice to a lessee, if a lessee fails to timely provide the release; providing requirements for the content of the notice; requiring a lessee to timely notify the lessor in writing of a dispute regarding the termination, expiration, or cancellation of the oil and natural gas lease; providing for an affidavit of termination, expiration, or cancellation with specified contents; providing a requirement that county clerks accept and record said affidavit; and providing that with proper notification by the lessor and in the absence of a dispute by the lessee, an affidavit of termination,

expiration, or cancellation, upon recordation by a county clerk, creates a rebuttable presumption of termination and cancellation of the oil or natural gas lease for certain interests and renders the recorded oil or natural gas lease as insufficient notice of the recorded lease under the notice statute.

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

**By Senators Stollings, Jeffries, Plymale, Lindsay, Hardesty, and Prezioso:**

**Senate Bill 528**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4r, relating to accident and sickness insurance; and pre-existing condition coverage.

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

**By Senators Trump, Tarr, and Rucker:**

**Senate Bill 529**—A Bill to amend and reenact §11-16-3, §11-16-5, §11-16-6a, §11-16-6b, §11-16-8, §11-16-9, §11-16-10, §11-16-12, and §11-16-17a of the Code of West Virginia, 1931, as amended, all relating to clarifying certain provisions of the Nonintoxicating Beer Act by creating a temporary license for nonintoxicating beer floorplan extensions of existing licensee floorplans; implementing a fee for the license; removing the two growler limit per patron per day for licensees who sell growlers for off premises consumption; providing a 30-day requirement to issue or deny a license application once the application is completed; implementing a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; creating a transportation permit for nonintoxicating beer; implementing a fee for the permit; licensing brewers, resident brewers, and distributor representatives; implementing a fee for the license; removing the bond requirements for brewers, resident brewers, distributors, and Class S licenses; requiring nonintoxicating beer label registration; and implementing a fee for the registration and subsequent renewals every three years.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 530**—A Bill to repeal §29-6-7a, §29-6-9, §29-6-10a, §29-6-14, and §29-6-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-6-1, §29-6-2, §29-6-3, §29-6-4, §29-6-6, §29-6-7, §29-6-8, §29-6-10, §29-6-12, §29-6-16, §29-6-17, §29-6-19, §29-6-20, §29-6-21, §29-6-22, §29-6-23, §29-6-24, and §29-6-27 of said code, all relating to the state employee merit system; defining terms; allowing additions to classified service; providing exemptions to classified service; providing makeup and duties of the State Personnel Board; defining a quorum; providing authority of Director of Personnel; providing rulemaking for the Division of Personnel; exempting cause of action changes to classification and pay grade; authorizing the director to adjust pay grades; providing process for appointment, promotion, or reinstatement from lists of candidates; allowing for pilot projects; providing process for dismissal; confidentiality of records; allowing local political subdivisions to participate in the classified service system; providing penalties; providing time frames for job postings and appointments; and allowing for a leave donation program.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 531**—A Bill to amend and reenact §23-5-7 of the Code of West Virginia, 1931, as amended, relating generally to workers' compensation claims pending in the administrative or appellate process; and providing that hearing loss and impairment claims are not occupational disease claims for the purpose of the requirement that a claimant be represented by counsel in a settlement for medical benefits.

Referred to the Committee on Banking and Insurance.

**By Senator Maynard:**

**Senate Bill 532**—A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended, relating to requiring emergency service organizations to create districts whereby towing

services within a district may be dispatched or implement a policy whereby all available towing services within an area currently served by an organization are dispatched on a rotating basis; requiring the West Virginia State Police to create districts whereby towing services within a district may be dispatched or implement a policy whereby all available towing services are dispatched on a rotating basis; requiring a municipality, when handling towing services, to create districts whereby towing services within a district may be dispatched or implement a policy whereby all available towing services are dispatched on a rotating basis; continuing the Public Service Commission's jurisdiction over the towing service providers themselves; prohibiting the State Police and municipalities from imposing their own rules, policies, or ordinances; and defining a term.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

Senators Beach, Jeffries, Stollings, Baldwin, Palumbo, and Swope offered the following resolution:

**Senate Concurrent Resolution 25**—Requesting the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U. S. Army PFC Andrew ‘Bo’ Martin Harper Memorial Bridge”.

Whereas, Andrew “Bo” Martin Harper was born August 17, 1951, in Charleston, South Carolina, the son of Steven M. Harper of Maidsville, West Virginia, and Deanna Jeannette Anderson Harper Wells of Middleburg, Florida; and

Whereas, Andrew “Bo” Martin Harper was a 2009 graduate of University High School in Monongalia County where he participated in football, wrestling, and track. He was a member of Young Life of Morgantown and attended Chestnut Ridge Church; and

Whereas, Andrew “Bo” Martin Harper enlisted in the United States Army and obtained the rank of PFC/E3. He was assigned to Iron Troop, 3rd Squadron, 2nd Stryker Cavalry Regiment, Vilseck, Germany; and

Whereas, On March 11, 2011, PFC Andrew “Bo” Martin Harper tragically lost his life conducting combat operations near Kandahar, Afghanistan; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army PFC Andrew “Bo” Martin Harper and his sacrifice to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U. S. Army PFC Andrew ‘Bo’ Martin Harper 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 Andrew ‘Bo’ Martin Harper 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 Takubo, Jeffries, Stollings, Baldwin, Plymale, Rucker, Palumbo, Cline, Maynard, Beach, and Swope offered the following resolution:

**Senate Resolution 27**—Designating February 5, 2019, as West Virginia Alzheimer’s Association Day at the Capitol.

Whereas, Nearly one in three senior citizens who dies each year has Alzheimer’s or another dementia; and



Whereas, Over 5 million Americans are living with Alzheimer's and as many as 16 million Americans will have the disease by 2050; and

Whereas, In West Virginia in 2017, 40,000 West Virginians ages 65 and older had an Alzheimer's or dementia-related diagnosis. That number is expected to increase to 39,000 by 2020, and will continue to rise to 44,000 by 2025; and

Whereas, The cost of caring for those with Alzheimer's and other dementias was estimated to total \$259 billion in 2017 in the United States, increasing to \$1.1 trillion by midcentury; and

Whereas, Every 67 seconds someone develops Alzheimer's in the United States, where it is the 6th leading cause of death; and

Whereas, There are more than 300,000 caregivers in West Virginia and 108,000 of those are caring for someone with Alzheimer's or another dementia. These caregivers provide almost \$2 billion in unpaid care each year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 5, 2019, as West Virginia Alzheimer's Association Day at the Capitol; and be it

*Further Resolved,* That the Senate hereby acknowledges the West Virginia Alzheimer's Association and the work they do to care for West Virginia residents living with Alzheimer's; and be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the West Virginia Alzheimer's Association for its dedication and commitment to helping those affected by Alzheimer's in West Virginia; and be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Alzheimer's Association.

At the request of Senator Takubo, 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 Jeffries, and by unanimous consent, the remarks by Senators Takubo and Stollings regarding the adoption of Senate Resolution 27 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:34 a.m., the Senate recessed to present Senate Resolution 27.

The Senate reconvened at 11:38 a.m. and resumed business under the sixth order.

Senators Prezioso, Jeffries, Stollings, Baldwin, Plymale, Palumbo, Hardesty, Beach, Swope, and Hamilton offered the following resolution:

**Senate Resolution 28**—Commemorating the life and career of Coach Joe Retton, husband, father, coach, veteran, and dedicated public servant.

Whereas, Joe Retton was a proud Grant Town native in Marion County, where he was a three-sport standout at Fairview High School; and

Whereas, Joe Retton served his country honorably in the U.S. Army in Korea, after which, he began his teaching and legendary coaching career; and

Whereas, Joe Retton was a dedicated public school teacher and head basketball coach at Barrackville High School. His outstanding coaching record at Barrackville was 147-19, and included winning a state championship; and

Whereas, Joe Retton moved on to become a college professor and head men's basketball coach at Fairmont State College, where he guided the Falcons from 1963-82; and

Whereas, During his tenure, Coach Retton compiled a record of 478-95 in his 19 seasons on the Fairmont State bench, ending his coaching career with a winning percentage of 83.6, the highest winning percentage of any coach in the nation at any level; and

Whereas, Coach Retton's unparalleled coaching career led the Falcons to 12 West Virginia Conference regular season titles and eight tournament championships; and

Whereas, Coach Retton was recognized nationally for his excellence in coaching, including twice as NAIA National Coach of the Year (1969, 1976). He also earned Associated Press Small College Coach of the Year in 1976 and was a six-time WVIAC Coach of the Year. He was a six-time NAIA District 28 Coach of the Year; and

Whereas, Coach Retton was a 1987 inductee into the NAIA Hall of Fame, and was also selected to the West Virginia Sports Writers Hall of Fame in 1988. He was inducted into Fairmont State's inaugural Athletics Hall of Fame class in 1993; and

Whereas, Coach Retton was married to his beloved Nancy, with whom he shared the joy of having two sons, John and David (wife Angie and children Maggie, Lucas, and Trent); and

Whereas, Sadly, Coach Joe Retton passed away at the age of 87 on October 10, 2018, bringing an end to a productive life of public service and leaving behind a grateful state and nation; and

Whereas, It is fitting, that we pay tribute to the life and legacy of Coach Joe Retton, a man whose contributions to Fairmont State and the state of West Virginia will be felt by many generations to come, and whose spirit will resound throughout the hills of West Virginia forever; therefore, be it

*Resolved by the Senate:*

That the Senate hereby commemorates the life and career of Coach Joe Retton, husband, father, coach, veteran, and dedicated public servant; and

*Further Resolved,* That the Clerk is hereby directed to forward of a copy of this resolution to the family of Coach Joe Retton.

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.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 28 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:45 a.m., the Senate recessed to present Senate Resolution 28.

The Senate reconvened at 11:49 a.m. and resumed business under the sixth order.

Senators Prezioso, Jeffries, Stollings, Baldwin, Plymale, Beach, Swope, and Hamilton offered the following resolution:

**Senate Resolution 29**—Congratulating Doug Nuzum for winning the Earle S. Dillard Insurance Agent of the Year Award.

Whereas, The Earle S. Dillard Award is presented annually by the Independent Insurance Agents of West Virginia to those association member-agents who, throughout their career, have personified the qualities most admired by the profession; and

Whereas, Doug Nuzum attended and graduated from West Virginia University where he met and married his wife, Donna. He is part of the Hood Agency in Fairmont, West Virginia; and

Whereas, Doug Nuzum was given the Outstanding Young Man of America Award in 1982, in recognition of outstanding professional achievement, superior leadership ability, and exceptional service to the community. In 1989, he received his first designation of Life Underwriter Training Council Fellow and, in 1992, completed his second designation of Accredited Adviser in Insurance; and

Whereas, Doug Nuzum has served as the president of the Professional Independent Insurance Agents of West Virginia. His community service includes work with the Boy Scouts of America,

Marion County Chamber of Commerce, Kiwanis, and the Marion County United Way; and

Whereas, Upon Doug's retirement in December 2017, his son, Chad Nuzum, took over leadership of the agency, which is now the Hood Insurance Group, LLC; and

Whereas, Doug Nuzum has demonstrated his excellence in the insurance industry and in his community, and for his efforts was presented the Earle S. Dillard Agent of the Year Award at the association's annual convention; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates Doug Nuzum for winning the Earle S. Dillard Insurance Agent of the Year Award; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Doug Nuzum.

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.

Thereafter, at the request of Senator Jeffries, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 29 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:54 a.m., the Senate recessed to present Senate Resolution 29.

The Senate reconvened at 11:56 a.m. and proceeded to the seventh order of business.

**Senate Concurrent Resolution 22**, Urging Congress call convention for purpose of proposing amendment restoring free and fair elections.

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

**Senate Concurrent Resolution 24**, Hazel Dickens 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 ninth order of business.

**Com. Sub. for Senate Bill 154**, Using school facilities for funeral and memorial services for certain community members.

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

**Com. Sub. for Senate Bill 157**, Authorizing Department of Administration promulgate legislative rules.

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

**Com. Sub. for Senate Bill 175**, Authorizing DHHR promulgate legislative rules.

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

**Senate Bill 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

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

**Senate Bill 343**, Relating to review and approval of state property leases.

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

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

**Com. Sub. for Senate Bill 387**, Relating generally to extradition.

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

**Com. Sub. for Senate Bill 392**, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work.

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

**Eng. House Bill 2462**, Issuing a certificate to correctional employees to carry firearms.

Having been read a second time on Friday, February 1, 2019, and now coming up in regular order, 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:

### **ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.**

#### **§15A-3-10. Law-enforcement powers of employees; authority to carry firearms.**

(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~~ continued and ~~shall consist~~ consists 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~~ has 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.

(g) Notwithstanding any provision of this code to the contrary, the commissioner may issue a certificate authorizing any correctional employee who has successfully completed the division's training program for firearms certification to carry a firearm in the performance of his or her official duties. The training program shall be approved by the commissioner and be equivalent to the training requirements applicable to deputy sheriffs for the use and handling of firearms. Any correctional employee authorized to do so by the commissioner may carry division-issued firearms while in the performance of his or her official duties, which shall include travel to and from work sites. To maintain certification, a correctional employee must successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by the law enforcement professional standards program. The certificate shall be on a form prescribed by the commissioner and shall bear his or her official signature.

The bill (Eng. H. B. 2462), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 127**, Relating to parole officers' duties to perform alcohol and drug testing of litigants.

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

**Com. Sub. for Senate Bill 163**, Authorizing DEP promulgate legislative rules.

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

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

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 261** (*Relating to number of magistrates serving each county*).

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Mann.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:05 p.m., the Senate adjourned until tomorrow, Wednesday, February 6, 2019, at 11 a.m.

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## WEDNESDAY, FEBRUARY 6, 2019

The Senate met at 11:11 a.m.

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

Prayer was offered by the Honorable Michael T. Azinger, a senator from the third district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Paul Hardesty, a senator from the seventh district.

Pending the reading of the Journal of Tuesday, February 5, 2019,

At the request of Senator Clements, 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, to take effect from passage, of

**Eng. Senate Bill 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax 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 269**, Updating terms used in WV Personal Income Tax Act.

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 2004**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §18-2-7d and §18-2-40; to amend and reenact section §18B-3C-4 of said code; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3 and §21-1E-4; to amend and reenact section §29-3-9 of said code; 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 providing for a program of instruction in workforce preparedness; providing career and technical education program information to students and parents; requiring transcript of post-secondary credits earned by public school students to be provided to them; elevating priority on program integration to meet region and state labor market needs by community and technical college/career and technical education consortia; providing for joint State Board and Council for Community and Technical College Education guidelines on program administration; providing joint responsibility of State Superintendent and

Chancellor for certain activities and reporting; requiring standards and procedures for recognizing career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose and intent; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor, State Fire Commission, State Fire Marshal and the professions and occupations licensing boards and commissions.

Referred to the Committee on Education.

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 2420**—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; creating a special revenue fund; 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 Economic Development; and then 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 from passage, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 2666**—A Bill supplementing and amending by increasing existing items of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Veterans' Assistance, Department of Veterans' Assistance, fund 0456, fiscal year 2019, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

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 2668**—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, Fund 0226, fiscal year 2019, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

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 5th day of February, 2019, 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. 17)**, Relating to probation eligibility.

**(S. B. 119)**, Specifying documents not subject to discovery in certain proceedings.

And,

(S. B. 272), Updating code relating to Commission on Special Investigations.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*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

**Senate Bill 13**, Changing distribution of racetrack video lottery net terminal income, excess net terminal income, and excess lottery fund.

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

**Com. Sub. for Senate Bill 13** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22-18a of the Code of West Virginia, 1931, as amended, relating to distributions from the State Excess Lottery Fund.

With the recommendation that the committee substitute 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

**Com. Sub. for Senate Bill 14** (originating in the Committee on Agriculture and Rural Development), Creating WV Farm-to-School Grant Program.

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

**Com. Sub. for Com. Sub. for Senate Bill 14** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, and §19-37-4, all relating to creating the West Virginia Farm-to-School Grant Program; setting out findings and purpose; creating the fund; providing method for allocating grants; limiting grants; authorizing rulemaking; and requiring program review and reports

With the recommendation that the committee substitute for committee substitute 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 19**, Relating to Senior Farmers Market Nutrition Program.

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

**Com. Sub. for Senate Bill 19** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-13, relating to the Senior Farmers Market Nutrition Program; setting forth legislative findings and intent; creating special revenue account designated the Senior Farmers Market Nutrition Program Fund;

identifying source of funds; providing terms for expenditures; requesting additional moneys be added to the fund; and directing that balance funds at the end of the fiscal year remain in the fund.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 39**, Providing certain military members in-state residency tuition rates.

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

**Com. Sub. for Senate Bill 39** (originating in the Committee on Education)—A Bill to amend and reenact §18B-10-1a of the Code of West Virginia, 1931, as amended, relating generally to in-state residency tuition rates; providing that nonresident members of a reserve unit in West Virginia qualify as residents for purposes of determining tuition rates; removing the requirement that members of the National Guard participate in the National Guard education services program; and providing that current members of the United States armed forces who reside in West Virginia qualify as residents for purposes of determining tuition rates.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*



The bill (Com. Sub. for S. B. 39), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 317** (originating in the Committee on Natural Resources), Authorizing three or more adjacent counties form multicounty trail network authority.

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

**Com. Sub. for Com. Sub. for Senate Bill 317** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7, §20-17-8, §20-17-9, and §20-17-10, all relating generally to authorizing three or more contiguous counties to form a multicounty trail network authority; providing legislative findings; defining terms; providing that an authority is a public corporation and joint development entity; providing that a county that is adjacent to an authority may join the authority as a participating county upon approval of the board of the authority and the county commission of the county wishing to participate; providing that two existing authorities may merge upon approval of the boards of both authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; establishing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of authority staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial

audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; providing criminal penalties for violation of purchasing and bidding requirements; clarifying that certain provisions of the code prohibiting certain officers from having a pecuniary interest in contracts applies to board members, officers, personnel, and agents of an authority; providing civil remedies for participating counties challenging purchasing contracts violating certain requirements; and providing for severability.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 352**, Relating to Division of Corrections and Rehabilitation acquiring and disposing of goods and commodities.

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

**Com. Sub. for Senate Bill 352** (originating in the Committee on Government Organization)—A Bill to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15A-3-14a, all relating to the Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities; clarifying notice requirements; allowing the division to require surety; expanding acceptable forms of surety; allowing the division to utilize best value procurement; providing exception;

establishing procedure for best value procurement; allowing for direct award procurement; establishing procedure for direct award procurement; allowing the division to run criminal background checks, financial background checks, licensing background checks, and credit checks to determine eligibility for award of contract; enumerating grounds upon which division shall disqualify vendors from being awarded a contract or having contract renewed; creating special revenue fund; and providing for methods of disposition of surplus property owned by the division.

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

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Maroney, 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

**Senate Bill 400**, Allowing Board of Dentistry create specialty licenses.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

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 408**, Determining indigency for public defender services.

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

**Com. Sub. for Senate Bill 408** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-21-16 of the Code of West Virginia, 1931, as amended, relating to public defender services generally; clarifying the person to determine financial eligibility for public defender services; empowering court administrators in circuits which have one to make the eligibility determination; continuing the authority of public defender offices to make eligibility decisions in circuits with a public defender office but without a court administrator; and authorizing circuit courts to make eligibility decisions in circuits with neither a court administrator nor a public defender office.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 496**, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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

**Com. Sub. for Senate Bill 496** (originating in the Committee on Government Organization)—A Bill to repeal §16-7-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-7-5 of said code; and to amend said code by adding thereto a new article, designated §19-11E-1, §19-11E-2, §19-11E-3, §19-11E-4, §19-11E-5, §19-11E-6, §19-11E-7, §19-11E-8, §19-11E-9, §19-11E-10, §19-11E-11, §19-11E-12, §19-11E-13, §19-11E-14, §19-11E-15, §19-11E-16, and §19-11E-17, all relating generally to transferring authority to regulate milk from the Department of Health and Human Resources to the Department of Agriculture; transferring authority to regulate milk and milk products effective July 1, 2019; explaining purpose and scope of article; defining terms; requiring milk producers and those handling or transporting milk or milk products to have and maintain permits; establishing procedure for obtaining permits; mandating certified inspectors of milk production facilities maintain valid licenses; establishing milk and milk product labeling standards; defining “adulteration”; describing authority and duties of Commissioner of Department of Agriculture regarding milk and milk products; listing prohibited acts; establishing grounds and procedure for suspension, revocation, or denial of permits or licenses; providing for right of hearing and appeal by persons aggrieved by actions taken pursuant to article; establishing criminal penalties for violation of article or rules promulgated thereunder; establishing civil penalties for violation of article or rules promulgated thereunder; allowing commissioner to promulgate rules permitting consent decrees or negotiated settlements of civil penalties; establishing that fees received pursuant to article are to be deposited into Department of Agriculture’s fees account; permitting commissioner to enter into agreements with public or private entities to carry out provisions of the article; protecting trade secrets from disclosure; providing exception; establishing orderly transition of milk regulatory operations to Department of Agriculture; and mandating that Department of Health and Human Resources’ legislative rules regulating milk remain in effect until July 1, 2020, or until earlier superseded by Department of Agriculture regulations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Vice 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 499**, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

**Eng. Com. Sub. for House Bill 2191**, Relating generally to limited video lottery.

And,

**Eng. Com. Sub. for House Bill 2307**, Relating to creating a provisional license for practicing barbering and cosmetology.

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

**Senate Joint Resolution 5**, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment.

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

**Com. Sub. for Senate Joint Resolution 5** (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the impeachment of officials generally; clarifying that a separate vote in an impeachment trial is necessary to preclude a person convicted from holding a position of honor, trust, or profit under the state; clarifying that a separate vote of two thirds of the members of the Senate is necessary to disqualify a person having been impeached and convicted from an office of honor, trust, or profit under the state; providing that rules of practice and procedure for impeachment proceedings and impeachment trials are not subject to judicial review; specifying that state courts are without authority to stay or enjoin impeachment proceedings; designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the resolution contained in the foregoing report from the Committee on the Judiciary.

Senator Clements, 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 16**, US Army SP4 Wilbur Allen Smith Memorial Bridge.

And,

**Senate Concurrent Resolution 20**, US Air Force SSGT Ryan David Hammond Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Baldwin, Sypolt, Stollings, Romano, Beach, Maroney, and Cline:**

**Senate Bill 533**—A Bill to amend and reenact §54-2-9 of the Code of West Virginia, 1931, as amended, relating to changing the determination of just compensation to be paid to the landowner when eminent domain is used for a pipeline.

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

**By Senators Baldwin, Hamilton, Romano, Beach, and Lindsay:**

**Senate Bill 534**—A Bill to amend and reenact §16-5A-2a of the Code of West Virginia, 1931, as amended, relating to requiring collection of additional information for cancer and tumor registry; and requiring seeking and recording of information on where subjects spent most of their lives.

Referred to the Committee on Health and Human Resources.

**By Senator Hamilton:**

**Senate Bill 535**—A Bill setting the date of collections of a municipal sales and service tax and use tax enacted by the City of



Buckhannon pursuant to the amendment to its Municipal Home Rule Plan approved by the Municipal Home Rule Board on January 16, 2019.

Referred to the Committee on Finance.

**By Senators Tarr and Cline:**

**Senate Bill 536**—A Bill to amend and reenact §3-2-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-3-3 of said code, all relating to updating election law by providing language governing new election systems; and allowing voters during in-person early voting to change their address and vote the proper ballot without challenge.

Referred to the Committee on the Judiciary.

**By Senators Boso and Cline:**

**Senate Bill 537**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-29B-31, relating to creating a workgroup to review the hospice need standards in this state.

Referred to the Committee on Health and Human Resources.

**By Senators Clements, Stollings, Plymale, and Cline:**

**Senate Bill 538**—A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating generally to the West Virginia Highway Design-Build Pilot Program; allowing Division of Highways to contractually obligate no more than \$350 million on any one design-build project for fiscal years beginning after June 30, 2019; allowing up to \$350 million to be contractually obligated for individual projects financed with bonds under authority of the Roads to Prosperity Amendment of 2017 after June 30, 2019; providing that design-build projects financed with bonds under authority of the Roads to Prosperity Amendment of 2017 do not count toward the annual cap on the design-build program; and clarifying terminology.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Mann, Baldwin, Facemire, Ihlenfeld, Jeffries, Maroney, Romano, Rucker, Stollings, Takubo, Weld, Woelfel, Unger, Hamilton, Hardesty, Beach, Prezioso, Plymale, Swope, Tarr, Cline, and Lindsay:**

**Senate Bill 539**—A Bill to amend and reenact §15-2A-6 of the Code of West Virginia, 1931, as amended, relating to the accrued benefit of retirees in the West Virginia State Police Retirement System Plan B.

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

**By Senators Sypolt, Tarr, Hamilton, and Cline:**

**Senate Bill 540**—A Bill to amend and reenact §15-12-10 of the Code of West Virginia, 1931, as amended, relating to requiring the State Police to visit the homes of registered sex offenders at regular intervals.

Referred to the Committee on the Judiciary.

**By Senators Romano, Azinger, Baldwin, Beach, Boso, Clements, Facemire, Hardesty, Jeffries, Lindsay, Mann, Palumbo, Smith, Stollings, Swope, Woelfel, Plymale, Maroney, and Cline:**

**Senate Bill 541**—A Bill to amend and reenact §22-10-6 of the Code of West Virginia, 1931, as amended, relating to the establishment of priorities for expenditures for plugging abandoned gas or oil wells; and to require money that results from the forfeiture of an oil and gas operator's bond as a result of the operator's failure to plug a well or otherwise comply with state statutes and rules to first be applied to correct or mitigate an immediate threat to the environment or hindrance or impediment to the development of mineral resources of this state that caused the forfeiture of the bond.

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

Senators Weld, Palumbo, Hamilton, Stollings, Baldwin, Beach, Plymale, Sypolt, Swope, Jeffries, and Maroney offered the following resolution:

**Senate Resolution 30**—Recognizing the Walking Miracles Family Foundation for its commitment to supporting caregivers, families, and survivors impacted by childhood, adolescent, and young adult cancer.

Whereas, The Walking Miracles Family Foundation exists to connect caregivers, families, and survivors impacted by childhood, adolescent, and young adult cancer to resources and referral networks and to help defray the cost of travel during the cancer journey, the primary barrier to care in West Virginia; and

Whereas, The Walking Miracles Family Foundation's Country Roads Travel Assistance Program has helped more than 200 families and has provided travel assistance to families in 33 of 55 West Virginia counties, including paying for gas, food, and lodging; and

Whereas, The Walking Miracles Family Foundation works to improve the patient experience through its Patient Navigation Program, which strives to connect families with resources and referral networks that address issues such as travel, family emotional and financial needs, long-term survivorship, and education; and

Whereas, The Walking Miracles Family Foundation has a counseling program that seeks to help patients deal with a cancer diagnosis, which often leads to one feeling frightened, confused, angry, depressed, or lonely. In addition, radiation and chemotherapy treatments may result in some memory loss, slow thinking, and other cognitive issues; and

Whereas, The Walking Miracles Family Foundation seeks to ensure our caregivers and survivors have survivorship plans and are connected to a survivorship clinic for proper follow-up. This includes education in the areas they received treatment and on the long-term side effects they might expect, which will better enable

patients to seek quality care and live a high quality of life; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Walking Miracles Family Foundation for its commitment to supporting caregivers, families, and survivors impacted by childhood, adolescent, and young adult cancer; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to the Walking Miracles Family Foundation for its work in the fight against cancer; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Walking Miracles Family Foundation.

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

On motion of Senator Takubo, at 11:29 a.m., the Senate recessed to present Senate Resolution 30.

The Senate reconvened at 11:32 a.m. and resumed business under the sixth order.

Senators Maroney, Unger, Palumbo, Hamilton, Stollings, Baldwin, Beach, Romano, Prezioso, Plymale, Sypolt, Swope, Jeffries, and Cline offered the following resolution:

**Senate Resolution 31**—Designating February 6, 2019, as Disability Advocacy Day at the Legislature.

Whereas, There are over 400,000 West Virginians with disabilities; and

Whereas, People with disabilities have the right to live, work, and fully participate in their communities to realize their dreams; and

Whereas, People with disabilities have the right to receive the support they need to exercise self-determination, achieve independence, and become productive employees in the workplace; and

Whereas, West Virginia cannot afford to segregate its citizens with disabilities, thereby impairing their ability to be productive members of society; and

Whereas, West Virginia's citizens with disabilities have banded together in a collective group, called the Fair Shake Network, to help bring their concerns to the forefront of public awareness; and

Whereas, The Fair Shake Network has developed a statewide network concerned with all types of disabilities and all age groups, providing opportunities for people to learn from each other and take action together; and

Whereas, The member organizations such as: Appalachian Center for Independent Living; West Virginia Developmental Disabilities Council; West Virginia Statewide Independent Living Council; West Virginia Division of Rehabilitation Services; WV Autism Training Center; West Virginian Parent Training & Information; Disability Rights of West Virginia; West Virginia University Center for Excellence in Disabilities; West Virginia State Rehabilitation Council; Open Doors, Inc.; National Association of Social Workers, WV Chapter; WV Olmstead Office; Mountain State Parents CAN; WV Association of the Deaf; Central West Virginia Action Network; Mountain State Centers for Independent Living, Job Squad; Northern West Virginia Center for Independent Living; The Arc of WV; People First of WV; and Aging and Disability Resource Network, have joined together to help increase public awareness of issues involving the many concerns of West Virginians with disabilities through the Fair Shake Network; and

Whereas, The purpose of Disability Advocacy Day is to increase the awareness and understanding of legislators,

administrators, policymakers, and the public of the policy issues that are important to people with disabilities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 6, 2019, as Disability Advocacy Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the Fair Shake Network.

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

On motion of Senator Takubo, at 11:33 a.m., the Senate recessed to present Senate Resolution 31.

The Senate reconvened at 11:36 a.m. and resumed business under the sixth order.

Senators Plymale, Woelfel, Unger, Palumbo, Stollings, Baldwin, Beach, Sypolt, Swope, Jeffries, and Lindsay offered the following resolution:

**Senate Resolution 32**—Congratulating the Cabell Midland High School boys' cross-country team for winning the 2018 Class AAA State Championship.

Whereas, The Cabell Midland boys' cross-country team had an extraordinary season, culminating in them winning the 2018 Class AAA State Championship, the school's 10th state cross-country title since Cabell Midland opened its doors in 1994; and

Whereas, The Cabell Midland High School boys' cross-country team is coached by Chris Parsons, and assistant coaches Rhonda Short, Peter Starnes, and Dave Wendall; and

Whereas, The Cabell Midland High School boys' cross-country team consists of members Yousef Abdelgaber, Brett Armbruster, Steven Ball, Joshua Dauber, Nick Harmon, K. J.

Helgason, Bryce Morris, Ben Norton, Zach Swanson, Josh Adkins, Jacob Ashworth, Andrew Blower, Seth Chapman, Jackson Gibson, Jack McKinney, Kaden Salmons, Will Turman, Nate Womack, Ian Hoopes, Sam LeRose, Peyton Levi, Sean Marcum, Carter McKenna, Ben Parker, Ty Watts, Justin Bailey, Cooper Gibson, Jaden Huffman, Tyler Marcum, and George Wait; and

Whereas, The Cabell Midland High School boys' cross-country team displayed their strong will and determination for an entire season and are a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The Cabell Midland High School boys' cross-country team went undefeated against West Virginia competition, and will be remembered as one of the best teams ever assembled in West Virginia high school cross-country history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Cabell Midland High School boys' cross-country team for winning the 2018 Class AAA State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Cabell Midland High School boys' cross-country team.

At the request of Senator Plymale, 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 Prezioso, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 32 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:42 a.m., the Senate recessed to present Senate Resolution 32.

The Senate reconvened at 11:45 a.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Clements, 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 Bill 542** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to registration fees for military-related special registration plates.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 25**, US Army PFC Andrew “Bo” Martin Harper 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 Senate Bill 154**, Using school facilities for funeral and memorial services for certain community members.

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 154 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

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. 154) 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 157**, Authorizing Department of Administration promulgate legislative rules.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

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. 157) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—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. 157) 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 175**, Authorizing DHHR promulgate legislative rules.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

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. 175) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—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. 175) 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 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 267) 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 387**, Relating generally to extradition.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

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. 387) 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 392**, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work.

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

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

**Eng. House Bill 2462**, Issuing a certificate to correctional employees to carry firearms.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2462) 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 2462**—A Bill to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating to authorizing the carrying of firearms by correctional employees; providing that after successful completion of designated firearms training, the commissioner may issue a certificate to carry division-issued firearms to correctional employees; establishing that authorized correctional employees may carry division-issued firearms during performance of official duties and when traveling to and from work; establishing the commissioner's firearm training program must be equivalent to the firearms training requirements for deputy sheriffs; requiring that the correctional employee must successfully complete an annual designated firearms course as established by the law enforcement professional standards program to maintain the certificate; and providing the certificate bearing the commissioner's signature shall be in a form prescribed by the commissioner.

*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.

**Com. Sub. for Senate Bill 127,** Relating to parole officers' duties to perform alcohol and drug testing of litigants.

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

**Com. Sub. for Senate Bill 163,** Authorizing DEP promulgate legislative rules.

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

**Senate Bill 343,** Relating to review and approval of state property leases.

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

At the request of Senator Takubo, 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.

At the request of Senator Takubo, and by unanimous consent, the following bills on first reading were considered read a first time and ordered to second reading:

**Senate Bill 16,** Authorizing expenditure of surplus funds by Wyoming County Commission.

**Com. Sub. for Senate Bill 30,** Eliminating tax on annuity considerations collected by life insurer.

**Com. Sub. for Com. Sub. for Senate Bill 90,** Transferring Safety and Treatment Program from DHHR to DMV.

**Com. Sub. for Senate Bill 237**, Improving ability of law enforcement to locate and return missing persons.

**Com. Sub. for Senate Bill 263**, Limiting number of days legislators may be compensated during extended and extraordinary sessions if budget bill not enacted.

**Com. Sub. for Senate Bill 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

**Senate Bill 346**, Changing rate which certain judges are paid for mileage when traveling within state.

**Com. Sub. for Senate Bill 356**, Requiring MAPS provide state and federal prosecutors information.

And,

**Senate Bill 453**, Relating to background checks of certain financial institutions.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Stollings, Woelfel, Blair, Smith, and Takubo.

The Senate proceeded to the thirteenth order of business.

Senator Trump called attention to today being the birthday of Casey Long, Analyst to the Senate President, and Richie Novak, Senate Technical Support, and on behalf of the Senate extended felicitations and good wishes to Casey Long and Richie Novak.

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Mann.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:10 p.m., the Senate adjourned until tomorrow, Thursday, February 7, 2019, at 11 a.m.

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## THURSDAY, FEBRUARY 7, 2019

The Senate met at 11:08 a.m.

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

Prayer was offered by the Reverend Binu Emmanuel, Associate Rector, Basilica of the Co-Cathedral of the Sacred Heart, Charleston, West Virginia.

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

Pending the reading of the Journal of Wednesday, February 6, 2019,

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.

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

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Blair, Roberts, and Tarr:**

**Senate Bill 543**—A Bill to repeal §17C-16-1, §17C-16-2, §17C-16-3, §17C-16-4, §17C-16-5, §17C-16-6, §17C-16-7, §17C-16-8, and §17C-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-10-3a of said code; and to amend said code by adding thereto a new section, designated §46A-6-107a, all relating generally to automobile warranties and inspections; eliminating annual mandatory state inspections of motor vehicles; providing that a used motor vehicle may only be



sold “as is” under certain circumstances; providing certain disclosure requirements for “as is” sales of used motor vehicles; providing that a consumer shall sign and date the disclosure for an “as is” sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle “as is”; providing that the merchant shall provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an “as is” sale of a used motor vehicle waives implied warranties, but does not waive any express warranties.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Hamilton, Carmichael (Mr. President), Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Bosó:**

**Senate Bill 544**—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to increasing salaries for members of the West Virginia State Police over a three-year period; increasing the annual interval salary increase; and setting effective dates.

Referred to the Committee on Finance.

**By Senator Azinger:**

**Senate Bill 545**—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended, relating to HIV testing; and eliminating outdated testing protocols.

Referred to the Committee on Health and Human Resources.

**By Senators Takubo, Maroney, and Stollings:**

**Senate Bill 546**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-27-39, relating generally to health care provider taxes;

imposing a contingent 0.13 percent tax on eligible acute care hospitals; and providing an expiration date for the tax.

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

**By Senators Maynard, Beach, Cline, and Swope:**

**Senate Bill 547**—A Bill to amend and reenact §19-25-2, §19-25-3, §19-25-4, and §19-25-5 of the Code of West Virginia, 1931, as amended, all relating generally to limiting landowner liability for noncommercial recreational or wildlife propagation use of lands; providing that an owner of land has no duty to keep his or her land safe for persons permitted or trespassing upon such land for recreational or wildlife propagation purposes; clarifying that an owner of land is not liable for death or injury to, or caused by, a person present on the owner's land for the purpose of engaging in recreational or wildlife propagation purposes; providing that an owner of land is not liable to persons present on the owner's land for the purpose of engaging in recreational or wildlife propagation purposes for injury or death resulting from a wild animal attack; providing that an owner of land who grants a lease, easement, or license of land to the federal government or any agency thereof, or the state or any agency thereof, or any county or municipality or agency thereof, for military, law-enforcement or homeland defense training or recreational or wildlife propagation purposes does not, by doing so, owe a duty to warn persons entering or going upon the land regarding dangerous wild animals and is not liable for injury or death resulting from wild animal attacks; substituting the term "charge" with the term "fee"; clarifying that the term "fee" does not include a one-time charge for an event that is less than \$50 per person per annum; providing that the term "fee" does not include a parking fee charged per vehicle entering the land; providing that the term "fee" does not include a voluntary donation to a nonprofit for the purpose of maintaining land for recreational purposes; altering the definition of the term "owner of land" to include any person holding legal possession, ownership, or partial ownership of an interest in land, including a person sponsoring land or premises for volunteer improvement or maintenance purposes; defining the term "person"; altering the definition of the term

“recreational purposes” to include any outdoor activity undertaken, or practice or instruction in any such activity, for the purpose of exercise, relaxation, or pleasure; specifically including the activities of rock climbing and kayaking in the definition of “recreational use”; and making technical corrections.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Cline, and Maroney:**

**Senate Bill 548**—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 generally to the administration of medication in nursing homes; repealing a pilot program designed to monitor the practice of unlicensed personnel administering medication in a nursing home setting; permitting a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse; authorizing Approved Medication Assistive Personnel (AMAP) to administer medication in a nursing home; providing certain exemptions; establishing requirements for training curricula and national medication aide certification examination procedures; establishing eligibility criteria; establishing procedures by which an AMAP may 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; requiring rulemaking; and defining terms.

Referred to the Committee on Health and Human Resources.

**By Senators Stollings, Prezioso, Hardesty, Hamilton, Ihlenfeld, Romano, Beach, Maroney, and Facemire:**

**Senate Bill 549**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§20-2-33c, relating to authorizing the Director of the Division of Natural Resources to include on applications for a hunting and fishing license a solicitation for a donation to fund the West Virginia University Rifle Team.

Referred to the Committee on Government Organization.

**By Senators Blair, Boley, Facemire, Hamilton, Ihlenfeld, Maroney, Palumbo, Plymale, Prezioso, Roberts, Swope, Sypolt, Tarr, Stollings, Jeffries, Hardesty, Romano, and Cline:**

**Senate Bill 550**—A Bill recognizing and declaring certain claims against agencies of the state to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

**By Senators Beach, Stollings, Romano, and Maroney:**

**Senate Bill 551**—A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions' ability to dispose of county or district property; and adding the ability of county commissions to dispose of the property to a nonprofit community or senior center organization without conducting a public sale.

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

**By Senator Maynard:**

**Senate Bill 552**—A Bill to amend and reenact §29-12-2, §29-12-3, §29-12-4, and §29-12-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-12-5d, all relating to reforming the practice of securing state insurance; reasserting the sovereign immunity of the State of West Virginia and the qualified immunity of its officers and employees as to any damages in excess of state insurance; providing for the process by which settlement of claims be approved; limiting attorney fees in instances of settlement of claims against state insurance or entry of final judgment for a claimant; establishing the extent of the amount of the state's

insurance coverage; establishing term limits for members of the state Board of Risk and Insurance Management; providing that the Insurance Commissioner submits the report of the board's activities and providing for certain information to be contained in the report; providing that appointed members of the Board of Risk and Insurance Management serve at the pleasure of the Governor; clarifying that the Director of the Board of Insurance and Risk Management shall hold no other employment; requiring any person who files a claim against the state which is subject to state insurance to reimburse the state for its costs of defense in the event a verdict is entered for the state; and limiting attorney fees in settlement of claims.

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

**By Senators Lindsay, Jeffries, Stollings, and Beach:**

**Senate Bill 553**—A Bill to amend and reenact §18-10-3 of the Code of West Virginia, 1931, as amended, relating to federal funds for land-grant institutions.

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

**By Senator Clements:**

**Senate Bill 554**—A Bill to amend and reenact §29-18-4a of the Code of West Virginia, 1931, as amended, relating to aligning the salary of the Director of the State Rail Authority with similar positions in state government; and providing that the Secretary of Transportation set the salary with the consent of the authority.

Referred to the Committee on Government Organization.

Senators Weld, Stollings, Hamilton, Ihlenfeld, Jeffries, Romano, Beach, Cline, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Resolution 33**—Designating February 7, 2019, as Veterans Visibility Day at the Legislature.

Whereas, From the Revolutionary War, which gave America its identity as a free and democratic nation, to this moment, America's men and women have always risen to the call of duty in order to defend and preserve our freedom, and help maintain freedom throughout the world; and

Whereas, Per capita, more citizens from West Virginia have served in our nation's armed forces than from any other state, and we are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Through wars, conflicts, and the threat of terror thousands of West Virginians have paid the ultimate price for freedom with their lives, and thousands more have been wounded in battle; and

Whereas, The Senate is proud to honor those currently serving in harm's way in Iraq, Afghanistan, and in other countries all over the world to protect democracy from the threat of terror; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded, and have given their lives not only for our freedom but for freedom around the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 7, 2019, as Veterans Visibility Day at the Legislature; and, be it

*Further Resolved,* That the Senate expresses its sincere gratitude to all West Virginia veterans and those men and women currently serving in the armed forces to protect our freedom; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Department of Veterans Assistance.

At the request of Senator Weld, 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 Senate Resolution 33, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Palumbo—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senate Resolution 33 adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld, Stollings, and Clements regarding the adoption of Senate Resolution 33 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:25 a.m., the Senate recessed to present Senate Resolution 33.

The Senate reconvened at 11:35 a.m. and resumed business under the sixth order.

Senators Takubo, Stollings, Hamilton, Ihlenfeld, Jeffries, Romano, Beach, Cline, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Resolution 34**—Designating February 7, 2019, as Go Red For Women Day at the Capitol.

Whereas, Cardiovascular disease is the number one killer of women in the United States; and

Whereas, Cardiovascular disease kills one woman every 80 seconds in the United States; and

Whereas, Around 80 percent of cardiovascular diseases may be prevented; and

Whereas, Some risk factors, such as blood pressure, smoking, cholesterol, and lack of regular physical activity, can be controlled; and

Whereas, The American Heart Association's Go Red For Women movement motivates women to learn their family history and to meet with a health care provider to determine their risk for cardiovascular diseases and stroke; and

Whereas, Go Red For Women encourages women to take control of their heart health by knowing five numbers that can be lifechanging: Total cholesterol; HDL (good) cholesterol; blood pressure; blood sugar; and body mass index; and

Whereas, By increasing awareness, speaking out about heart disease, and empowering women to reduce their risk for cardiovascular diseases, thousands of lives can be saved each year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 7, 2019, as Go Red For Women Day at the Capitol; and, be it

*Further Resolved,* That the Senate urges all citizens to show their support for women and the fight against heart disease by commemorating this day and wearing the color red; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Go Red For Women Day.

At the request of Senator Takubo, 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 Prezioso, and by unanimous consent, the remarks by Senator Takubo regarding the



adoption of Senate Resolution 34 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:38 a.m., the Senate recessed to present Senate Resolution 34.

The Senate reconvened at 11:42 a.m. and resumed business under the sixth order.

Senators Romano, Facemire, Stollings, Hamilton, Jeffries, Beach, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Resolution 35**—Recognizing Glenville State College and the public school districts of Gilmer, Braxton, Calhoun, Doddridge, Fayette, Kanawha, Lewis, Nicholas, Pleasants, Pocahontas, Roane, Webster, Wood, Wirt, and Upshur counties for their efforts in solving the teacher shortage by improving teacher recruitment, education, and retention throughout West Virginia.

Whereas, Glenville State College was originally founded in 1872 to serve the higher education needs of West Virginia citizens by preparing teachers to serve in the classrooms of the state as the educators of its children; and

Whereas, Glenville State College continues to be critical to the educational and economic vitality of central West Virginia through its many partnerships with businesses, agencies, and public school districts; and

Whereas, Glenville State College has shown leadership to the state in keeping the cost of tuition affordable to students during the past two academic years, 2017-2019, reducing tuition contrary to state and national trends, and is committed again to doing so for the upcoming 2019-2020 academic year; and

Whereas, Glenville State College and the public school districts of the counties of Gilmer, Braxton, Calhoun, Doddridge, Fayette, Kanawha, Lewis, Nicholas, Pleasants, Pocahontas, Roane, Webster, Wood, Wirt, and Upshur have partnered to increase the number of highly qualified teachers, particularly in the defined

shortage areas of science, math, and special education; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Glenville State College and the public school districts of Gilmer, Braxton, Calhoun, Doddridge, Fayette, Kanawha, Lewis, Nicholas, Pleasants, Pocahontas, Roane, Webster, Wood, Wirt, and Upshur counties for their efforts in solving the teacher shortage by improving teacher recruitment, education, and retention throughout West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Glenville State College.

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 Prezioso, and by unanimous consent, the remarks by Senators Romano, Facemire, and Maroney regarding the adoption of Senate Resolution 35 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:47 a.m., the Senate recessed to present Senate Resolution 35.

The Senate reconvened at 11:51 a.m. and resumed business under the sixth order.

### **Petitions**

Senators Hamilton and Boso presented a petition from Howard Cogar and 109 Diana, West Virginia, residents, requesting a water line extension to Guardian Drive, Big Run Road, Bear Run Road, Removal Road, and Cool Lane Road in Diana, West Virginia.

Referred to the Committee on Transportation and Infrastructure.

Senator Baldwin presented a petition from the West Virginia Rivers Coalition and 898 West Virginia residents, requesting the

Legislature to update human health protections in state water quality standards.

Referred to the Committee on the Judiciary.

Without objection, the Senate returned 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 2363**—A Bill to amend and reenact §5B-2-15 of the Code of West Virginia, 1931, as amended, relating to the Upper Kanawha Valley Resiliency and Revitalization Program; extending the length of the program; clarifying the reporting requirements for the program; removing certain language regarding funding; and requiring an assessment of the option of establishing or maintaining schools jointly pursuant to authority granted in said code.

Referred to the Committee on Education; and then 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 2490**—A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended, relating to preventing the secretary of the Department of Health and Human Resources from enforcing certain rules relating to public pools.

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 2691**—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

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 2779**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9; and to amend and reenact §55-12A-7 of said code, all relating to funding the Oil and Gas Reclamation Fund by providing that proceeds from certain oil and natural gas wells and interests that are due to persons whose names or addresses are unknown or unlocatable which are being kept in special funds throughout the state, if unclaimed for seven years or more, shall be transferred to the Oil and Gas Reclamation Fund and used to plug orphaned and abandoned oil and natural gas wells; providing and clarifying that certain deed provisions purporting to convey or reserve interests created by this article are void, providing that certain provisions take effect beginning when funds have been unclaimed for seven years after the special commissioner's lease regardless of when the lease was signed; and authorizing rule making.

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

The Senate proceeded to the fourth order of business.

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

Your Committee on Pensions has had under consideration

**Senate Bill 26**, Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems.

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

**Com. Sub. for Senate Bill 26** (originating in the Committee on Pensions)—A Bill to amend and reenact §18-7A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7B-2 of said code, all relating to permitting full-time employees of educational services cooperatives to participate in the State Teachers Retirement System; and permitting full-time employees of educational services cooperatives to participate in the State Teachers' Defined Contribution Retirement System.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Bill 153**, Providing greater flexibility for making infrastructure project grants.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Economic Development.

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

Your Committee on Pensions has had under consideration

**Senate Bill 316**, Preserving previously approved state Municipal Policemen's or Firemen's pensions.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

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

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

Your Committee on Pensions has had under consideration

**Senate Bill 341**, Establishing minimum monthly retirement annuity for retirants with 20 or more years of service.

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

**Com. Sub. for Senate Bill 341** (originating in the Committee on Pensions)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22i; and to amend said code by adding thereto a new section, designated §18-7A-26w, all relating to establishing a minimum monthly retirement annuity of \$750 for those retirants with 20 or more years of credited service.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The bill (Com. Sub. for S. B. 341), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 440**, Relating to Antihazing Law.

And reports the same back with the recommendation that it 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

**Senate Bill 442**, Supplementing, amending, and decreasing appropriation to Insurance Commission.

**Senate Bill 443**, Supplemental appropriation of federal moneys to DHHR divisions.

**Senate Bill 444**, Supplemental appropriation to DHHR divisions.

And,

**Senate Bill 452**, Supplemental appropriation to Second Chance Driver's License Program.

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

**Senate Bill 491**, Extending effective date for voter registration in conjunction with driver licensing.

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

**Com. Sub. for Senate Bill 491** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating generally to automatic voting registration through the Division of Motor Vehicles; adding United States citizenship status to information that applicants must provide; requiring the Division of Motor Vehicles to confirm and maintain a record of an applicant's citizenship status; requiring the Division of Motor Vehicles to provide notice to the Secretary of State and the appropriate county clerk if voting registration information related to a noncitizen is released to the Secretary of State in error; requiring the Division of Motor Vehicles and the Secretary of State to cooperate to develop a process by January 1, 2020, to compare all information regarding a person's citizenship status available to the Division of Motor Vehicles with voter information released to the Secretary of State in order to detect and cancel voting registration by noncitizens; delaying the effective date for automatic voter registration in conjunction with certain Division of Motor Vehicle transactions until July 1, 2021; and requiring the Division of Motor Vehicles, the Department of Transportation, and the Secretary of State to file certain reports with and appear before the Joint Committee on Government and Finance and the Joint Standing Committee on the



Judiciary during the first interim meetings occurring after September 1, 2019.

With the recommendation that the committee substitute 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

**Senate Bill 510**, Relating to medical professional liability.

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

**Com. Sub. for Senate Bill 510** (originating in the Committee on Finance)—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; providing for requirements for notice of claim; setting out requirements for an expert who signs a certificate of merit; and providing for information to be included with the certificate of merit

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

On motion of Senator Blair, the bill (Com. Sub. for S. B. 510) contained in the foregoing report from the Committee on Finance was then referred to the Committee on the Judiciary.

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 2459**, Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

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 Maroney, 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. House Bill 2492**, Relating to mandatory reporting procedures of abuse and neglect of adults and children.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 16**, US Army SP4 Wilbur Allen Smith 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 20**, US Air Force SSGT Ryan David Hammond Memorial Bridge.

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

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

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 127**, Relating to parole officers' duties to perform alcohol and drug testing of litigants.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boso, Mann, and Palumbo—3.

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. 127) 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 163**, Authorizing DEP promulgate legislative rules.

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 163 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Palumbo—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 S. B. 163) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Ihlenfeld, Lindsay, and Unger—3.

Absent: Mann and Palumbo—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 S. B. 163) 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 392,** Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Palumbo—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 S. B. 392) 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.

**Senate Bill 16,** Authorizing expenditure of surplus funds by Wyoming County Commission.

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

**Com. Sub. for Senate Bill 30**, Eliminating tax on annuity considerations collected by life insurer.

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

**Com. Sub. for Com. Sub. for Senate Bill 90**, Transferring Safety and Treatment Program from DHHR to DMV.

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

**Com. Sub. for Senate Bill 237**, Improving ability of law enforcement to locate and return missing persons.

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

**Com. Sub. for Senate Bill 263**, Limiting number of days legislators may be compensated during extended and extraordinary sessions if budget bill not enacted.

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

**Com. Sub. for Senate Bill 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

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

**Senate Bill 343**, Relating to review and approval of state property leases.

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

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

On page one, section twelve, line two, by striking out the words “state property” and inserting in lieu thereof the following: “grounds, buildings, offices, or other spaces”.

The bill (S. B. 343), as amended, was then ordered to engrossment and third reading.

**Senate Bill 346**, Changing rate which certain judges are paid for mileage when traveling within state.

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

**Com. Sub. for Senate Bill 356**, Requiring MAPS provide state and federal prosecutors information.

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

**Senate Bill 453**, Relating to background checks of certain financial institutions.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 13**, Relating to distributions from State Excess Lottery Fund.

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

**Com. Sub. for Com. Sub. for Senate Bill 14**, Creating WV Farm-to-School Grant Program.

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

**Com. Sub. for Senate Bill 19**, Relating to Senior Farmers Market Nutrition Program.

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

**Com. Sub. for Com. Sub. for Senate Bill 317**, Authorizing three or more adjacent counties form multicounty trail network authority.

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

**Com. Sub. for Senate Bill 352**, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

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

**Com. Sub. for Senate Bill 408**, Determining indigency for public defender services.

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

**Com. Sub. for Senate Bill 496**, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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

**Senate Bill 499**, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

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

**Senate Bill 542**, Relating to registration fees for military-related special registration plates.

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

**Com. Sub. for Senate Joint Resolution 5**, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment.



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

**Eng. Com. Sub. for House Bill 2191**, Relating generally to limited video lottery.

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

And,

**Eng. Com. Sub. for House Bill 2307**, Relating to creating a provisional license for practicing barbering and cosmetology.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Lindsay.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Prezioso, the name of Senator Prezioso was removed as a sponsor of **Senate Bill 500** (*Creating Sewer and Water Infrastructure Replacement Act*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:25 p.m., the Senate adjourned until tomorrow, Friday, February 8, 2019, at 11 a.m.

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FRIDAY, FEBRUARY 8, 2019

The Senate met at 11:14 a.m.

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

Prayer was offered by the Reverend Jim Walther, Jr., Interim Pastor, First Presbyterian Church of Nitro, Nitro, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Romano, a senator from the twelfth district.

Pending the reading of the Journal of Thursday, February 7, 2019,

At the request of Senator Boso, 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, to take effect from passage, of

**Eng. Senate Bill 324**, Relating to Commissioner of Agriculture employees.

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 2204**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to prohibiting state licensing boards from hiring lobbyists; and declaring that the director, board counsel and appointed board members of each board may lobby on behalf of the board.

Referred to the Committee on Government Organization.

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, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. House Bill 2351**, Relating to regulating prior authorizations.

On motion of Senator Takubo, 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:

By striking out everything after the enacting section 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.**

**§5-16-7f. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at, the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward

compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from the Public Employees Insurance Agency about the coverage of a service or medication.

(b) The Public Employees Insurance Agency is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the Public Employees Insurance Agency’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the Public Employees Insurance Agency requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the Public Employees Insurance Agency requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the Public Employees Insurance Agency and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The Public Employees Insurance Agency shall accept electronic prior authorization requests and respond to the request

through electronic means by July 1, 2020. The Public Employees Insurance Agency is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the Public Employees Insurance Agency is currently accepting electronic prior authorization requests, the Public Employees Insurance Agency shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the Public Employees Insurance Agency shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the Public Employees Insurance Agency shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the Public Employees Insurance Agency shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the Public Employees Insurance Agency wishes to audit the prior authorization or if the information regarding step therapy

is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by the Public Employees Insurance Agency is carried over to all other managed care organizations and health insurers for three months, if the services are provided within the state.

(h) The Public Employees Insurance Agency shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the Public Employees Insurance Agency and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The Public Employees Insurance Agency's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the health care practitioner shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the Public Employees Insurance Agency shall not require the health care practitioner to submit a prior authorization for that procedure for

the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the Public Employees Insurance Agency and may be rescinded if the Public Employees Insurance Agency determines the health care practitioner is not performing the procedure in conformity with the Public Employees Insurance Agency's benefit plan based upon the results of the Public Employees Insurance Agency's internal audit.

(l) The Public Employees Insurance Agency must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the Public Employees Insurance Agency is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The Public Employees Insurance Agency shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

#### **§33-15-4s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care

practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b) The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on its’ webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated regularly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer



and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from

the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations, health insurers and the, Public Employees Insurance Agency for three months, if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period

has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3dd. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures, and rehabilitation initially requested by the health care practitioner, to be performed at the site of service, excluding out of

network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b) The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the health insurer’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer

and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from

the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer

shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,  
MEDICAL SERVICE CORPORATIONS, DENTAL  
SERVICE CORPORATIONS, AND HEALTH SERVICE  
CORPORATIONS.**

**§33-24-7s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care

practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b) The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on health insurer’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health insurer requires prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the



patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the

additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations though a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8p. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, ~~and~~ procedures and rehabilitation initially requested by health care

practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b) The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on health insurer’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health insurer requires prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the

patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the

additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations though a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8s. Prior authorization.**

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests,

procedures and rehabilitation initially requested by health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health maintenance organization about the coverage of a service or medication.

(b) The health maintenance organization is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on health maintenance organization’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health maintenance organization requires prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;



(4) Inform the patient if the health maintenance organization require a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health maintenance organization and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health maintenance organization shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health maintenance organization is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health maintenance organization is currently accepting electronic prior authorization requests, the health maintenance organization shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health maintenance organization shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the health maintenance organization shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health maintenance organization shall identify all deficiencies and within two business days from the time on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health maintenance organization wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health maintenance organization is carried over to all other managed care organizations, health insurers and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health maintenance organization shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health maintenance organization and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health maintenance organization's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician

shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health maintenance organization shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health maintenance organization and may be rescinded if the health maintenance organization determines the health care practitioner is not performing the procedure in conformity with the health maintenance organization's benefit plan based upon the results of the health maintenance organization's internal audit.

(l) The health maintenance organization must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health maintenance organization are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health maintenance organizations shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. House Bill 2351**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7f; to amend said code by adding thereto a new section, designated §33-15-4s; to amend said code by adding thereto a new section, designated §33-16-3dd; to amend said code by adding thereto a new section, designated §33-24-7s; to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to prior authorizations; requiring health insurers to develop prior authorization forms; requiring health insurers to develop prior authorization portals; defining terms; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; establishing form requirements; establishing deadlines for approval of prior authorizations; providing for a process of an incomplete prior authorization submission; providing for an audit; setting forth peer review procedures; requiring health insurers to accept a prior authorization from other health insurers for a period of time; requiring health insurers to use certain standards when reviewing a prior authorization; providing an exemption for medication provide upon discharge; requiring an exemption for health care practitioners meeting specified criteria; requiring certain information to be included on the health insurer's web page; establishing deadlines for pharmacy benefit prior authorization; establishing submission format for pharmacy benefits; setting forth an effective date; providing for implementation applicability; and setting deadlines.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. H. B. 2351) 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2479**—A Bill to amend and reenact §33-33-2, §33-33-12 and §33-33-16 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §33-33-12a; and to amend said code by adding thereto a new article, designated §33-52-1, §33-52-2, §33-52-3, §33-52-4, §33-52-5, §33-52-6, §33-52-7, §33-52-8, and §33-52-9, all relating to the corporate governance practices of an insurance company or a group of insurers; defining internal audit function; making an insurer's audit committee responsible for overseeing the insurer's internal audit function; providing that certain insurers must establish an internal audit function with respect to the insurer's governance, risk management, and internal controls; requiring the head of an insurer's internal audit function to report to the insurer's audit committee regularly, but no less than annually, about the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings; exempting certain insurers from the internal audit function requirements; stating purpose of Corporate Governance Annual Disclosure Act; defining terms; requiring an insurer to annually submit to the insurance commissioner a corporate governance annual disclosure; describing the contents of the corporate governance annual disclosure; requiring that the corporate governance annual disclosure include a signature of the insurer's chief executive officer or corporate secretary; permitting the insurer to choose the corporate level that the corporate governance annual disclosure is applicable, depending upon how the insurer has structured its corporate governance system; allowing the insurer to comply with the corporate governance annual disclosure requirements by cross referencing other documents or referencing documents already in the possession of the insurance commissioner; requiring that documents and other information related to the corporate governance annual disclosure be confidential and privileged; permitting the insurance

commissioner to share documents, materials or other corporate governance annual disclosure-related information with National Association of Insurance Commissioners and other regulatory bodies; providing that the insurance commissioner may retain third-party consultants to assist the commissioner in reviewing the corporate governance annual disclosure and related information; subjecting such third-party consultants and the National Association of Insurance Commissioners to the same confidentiality standards as the insurance commissioner; setting forth the penalty for an insurer that fails to timely provide a corporate governance annual disclosure to the insurance commissioner; and providing for effective dates.

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 from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2481**—A Bill to amend and reenact §60-3A-18 of the Code of West Virginia, 1931, as amended, relating to permitting retail liquor licensees to sell certain alcoholic beverages after 1 p.m. on Sundays.

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 2608**—A Bill to repeal §61-3-39l of the Code of West Virginia, 1931, as amended, relating to requiring printing the date a consumer deposit account was opened on paper check.

Referred to the Committee on Banking and Insurance.

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 2686**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-15B-1, and §62-15B-2, all relating to permitting the Supreme Court of Appeals of West Virginia to create a family drug treatment court pilot program; permitting the implementation of a family drug treatment court pilot program in at least four circuits; restricting family drug treatment courts to individuals with substance use disorders who are involved in a child abuse and neglect case; permitting the Supreme Court of Appeals of West Virginia to provide oversight, technical assistance and training; establishing a state family drug treatment court advisory committee; establishing a local family drug treatment court advisory committee; requiring each local family drug treatment court advisory committee to establish criteria for the eligibility and participation of adult responders who have been adjudicated an abusing or neglecting parent and who have been granted a post-adjudicatory improvement period and who have a substance use disorder; prohibiting certain respondents from being eligible for participation in a family drug treatment court; and providing that participation by an adult respondent in a family drug treatment court shall be voluntary and made pursuant only to a written agreement by and between the adult respondent and the department with concurrence of the court.

Referred to the Committee on the Judiciary.

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 40**, Establishing Military Service Members Court program.

**Senate Bill 47**, Providing wind power projects be taxed at real property rate.

**Senate Bill 296**, Providing 11-month window to permit members of PERS to purchase credited service.

And,

**Senate Bill 461**, Providing for personal income tax withholding on certain lottery winnings.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 285** (originating in the Committee on Agriculture and Rural Development), Relating to modification of cottage food laws.

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

**Com. Sub. for Com. Sub. for Senate Bill 285** (originating in the Committee on Government Organization)—A Bill to amend and reenact §19-35-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-6, all relating to the sale of homemade food items; defining terms; authorizing production and sale of homemade food items under certain circumstances; establishing conditions for exemption from licensure, permitting, inspection, packaging, and labeling laws; providing required notices to consumer; defining manner of providing notices; exempting certain products from the scope of this provision; permitting local health departments to inspect reported foodborne illnesses; authorizing Department of Agriculture to provide assistance, consultation, or inspection at request of producer; providing for



preemption by county, local, and municipal ordinances; and providing for exemptions.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*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 291**, Relating generally to survivor benefits for emergency response providers.

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

**Com. Sub. for Senate Bill 291** (originating in the Committee on Finance)—A Bill to amend and reenact §5H-1-1, §5H-1-2, and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to survivor benefits for emergency response providers; changing the name of the West Virginia Fire and EMS Survivor Benefit Act to the West Virginia Emergency Responders Survivor Benefit Act; making Division of Forestry personnel who die as a proximate result of their participation in wildland fire fighting, emergency response, or disaster response operations eligible for survivor benefits; defining terms; making technical changes; and reorganizing language in the act for clarity.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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 Bill 305**, Prohibiting waste of big game animals.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 345**, Adding definition of “grantee” to include state spending units and local governments.

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

**Com. Sub. for Senate Bill 345** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f of said code, all relating to fire service equipment and training funds for volunteer and part-volunteer fire companies and departments; authorizing fire departments to file bank statements and check images instead of sworn statements of expenditures; prohibiting the commingling of funds; requiring

retention of payment records; defining terms; changing deadline dates; authorizing forfeiture and redistribution of funds of delinquent fire departments; prohibiting the conversion of funds through returns or refunds of goods or services; providing for deductions from quarterly distributions to offset improper expenditures by a fire company or department; clarifying the responsibility for proposing legislative rules; requiring written notifications of delinquencies and misapplications of funds; providing a procedure to contest findings of Legislative Auditor; removing certain criminal penalties; and updating outdated language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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 Bill 402**, Authorizing Division of Forestry investigate and enforce timber theft violations.

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

**Com. Sub. for Senate Bill 402** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §19-1A-3b of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Forestry to investigate and enforce timber theft violations on all lands; and directing the penalties for timber theft to the criminal statute.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill (Com. Sub. for S. B. 402), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 Bill 404**, Altering sediment control during commercial timber harvesting operations.

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

**Com. Sub. for Senate Bill 404** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §19-1B-4, §19-1B-6, §19-1B-7, §19-1B-10, and §19-1B-12a of the Code of West Virginia, 1931, as amended, all relating generally to sediment control during commercial timber harvesting operations; increasing the threshold amount before a logger must follow certain licensing requirements regarding sediment control; requiring the logger to notify the Director of the Division of Forestry at least three days before timbering begins; requiring certain training requirements prior to recertification of certified loggers; providing for appeals; increasing criminal penalties; and editing certain limitations on issuing citations and powers of arrest.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill (Com. Sub. for S. B. 404), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 405**, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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

**Com. Sub. for Senate Bill 405** (originating in the Committee on Government Organization)—A Bill to amend and reenact §11A-3-23, §11A-3-25, §11A-3-36, §11A-3-56, §11A-3-57, and §11A-3-58 of the Code of West Virginia, 1931, as amended, all relating to the sale of tax liens by the State Auditor; increasing the limit to \$500 on additional expenses a purchaser may recover in preparing notice list for redemption of purchase and for licensed attorney's title examination; and requiring any amounts above the surplus of 20 percent of the gross amount of the operating fund be paid to the General School Fund at the end of each fiscal year.

With the recommendation that the committee substitute do pass.

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

**Senate Bill 481**, Relating to Judicial Vacancy Advisory Commission.

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

**Com. Sub. for Senate Bill 481** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating to the Judicial Vacancy Advisory Commission; altering the in-state residency requirements for members of the commission; providing that no more than four of its appointed members may be residents of the same congressional district; providing that no more than two of its appointed members may be residents of the same state senatorial district; clarifying that current commission members will not be disqualified from serving for the remainder of their terms based on amendments to in-state residency requirements; and deleting obsolete language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Maroney, 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

**Senate Bill 518**, Restricting sale and trade of dextromethorphan.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Senator Maroney, 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

**Senate Bill 519**, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Senator Boso, 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 2446**, Blue Alert Plan.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Rucker, Blair, Trump, Unger, and Boso:**

**Senate Bill 555**—A Bill to amend and reenact §18B-5-3 of the Code of West Virginia, 1931, as amended, relating to the authority of the Higher Education Policy Commission, the Council for Community and Technical College Education, and institutional governing boards to enter into contracts for programs, services, and facilities; and providing for specified flexibility entering into agreements with certain affiliated nonprofit corporations.

Referred to the Committee on Government Organization.

**By Senators Tarr, Azinger, Maynard, Smith, Boso, Cline, and Swope:**

**Senate Bill 556**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-15B-1, §62-15B-2, §62-15B-3, §62-15B-4, and §62-15B-5, all relating to limiting the liability of employers in cases where convictions for certain crimes are expunged; requiring creation of a database record showing offenses were expunged; requiring courts to cross-reference database for expungements; providing that an employer is not liable to furnish health insurance or health care costs to persons whose records are expunged for drug addiction related offenses or drug addiction related diseases; and providing exceptions.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Cline, and Boso:**

**Senate Bill 557**—A Bill to amend and reenact §7-11B-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-12-5 of said code, all relating to allowing municipalities to contract, without bidding, projects up to \$50,000.

Referred to the Committee on Government Organization.



**By Senator Azinger:**

**Senate Bill 558**—A Bill to amend and reenact §3-7-6 of the Code of West Virginia, 1931, as amended, relating to requiring state and federal elections to be contested before the next election.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Takubo, Plymale, Baldwin, Lindsay, Jeffries, Hardesty, and Prezioso:**

**Senate Bill 559**—A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-5-12 of said code, all relating to expanding comprehensive coverage for pregnant women through Medicaid to 185 percent of the federal poverty level; providing coverage for 60 days postpartum; expanding comprehensive coverage for pregnant women between 185 percent and 300 percent of the federal poverty level including prenatal care, delivery, and 60 days postpartum through the Children's Health Insurance Program.

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

**By Senators Stollings, Takubo, Lindsay, Hardesty, and Prezioso:**

**Senate Bill 560**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-8b; to amend said code by adding thereto a new section, designated §33-15-4s; to amend said code by adding thereto a new section, designated §33-16-3dd; to amend said code by adding thereto a new section, designated §33-24-7s; to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to prohibiting insurance coverage from requiring prior authorization for physician prescribed tests to stage cancer.

Referred to the Committee on Health and Human Resources.

**By Senators Trump, Takubo, and Boso:**

**Senate Bill 561**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§60-2-17a; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto two new sections, designated §60-7-6a and §60-7-8a; and to amend and reenact §61-8-27 of said code, all relating to permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink; clarifying certain licensing requirements for licensure; clarifying prohibition on liquor bottle sales in Class A licenses; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; creating a private fair and festival license; definitions; license requirements; license fee; creating the private hotel license and license fee; creating a private nine-hole golf course license and fee; definitions; license requirements; license fee; permitting a private resort hotel to have inner-connection with a resident brewer who has a brewpub; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees who fail to timely file their renewal application and pay their annual license fees; permitting a license privilege for certain licensees to operate a connected but separately operated Class A on-premises license and a Class B off-premises license; clarifying that certain state-licensed gaming is permissible in a private club; and permitting minors to attend a private nine-hole golf course and a private fair or festival under certain conditions.

Referred to the Committee on the Judiciary.

**By Senators Clements, Beach, Boso, and Cline:**

**Senate Bill 562**—A Bill to repeal §29-2A-9, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-11b, §29-2A-11c, §29-2A-11d, §29-2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-14, §29-2A-17, §29-2A-18, §29-2A-19, §29-2A-20, §29-2A-21, §29-2A-22, §29-2A-23, §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27, and §29-2A-28 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, and §29-2A-8 of said code, all relating to the State Aeronautics Commission; removing antiquated

and inoperable provisions and sections; modifying and deleting definitions; continuing the State Aeronautics Commission; modifying and updating membership requirements, powers, and duties of the commission; setting forth quorum and meeting requirements; providing for the organization and operation of the commission; modifying provisions related to the director of the commission; updating provisions related to funding and federal aid; and continuing general powers related to planning, establishing, constructing, maintaining, and operating of airports.

Referred to the Committee on Government Organization.

**By Senators Trump, Woelfel, Plymale, Boso, and Rucker:**

**Senate Bill 563**—A Bill to amend and reenact §61-8B-11 of the Code of West Virginia, 1931, as amended, relating generally to evidence in prosecution for sexual offenses; prohibiting a victim from being subjected to certain physical examinations; and providing that a victim's refusal to undergo certain physical examinations does not preclude admission of evidence regarding other physical examinations.

Referred to the Committee on the Judiciary.

Senators Swope, Jeffries, Plymale, Beach, Lindsay, Stollings, Boso, and Maynard offered the following resolution:

**Senate Concurrent Resolution 26**—Requesting the Division of Highways name Bridge Number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying US 19 over Interstate 77 in Mercer County, the “Thompson-Lambert Memorial Bridge”.

Whereas, Tragedy befell Mercer County on August 16, 2018, when the vehicles of three employees of the West Virginia Parkways Authority's Courtesy Patrol were struck while on duty by a tractor-trailer at mile marker 23 on the West Virginia Turnpike; and

Whereas, Emergency responders pronounced Nathan Thompson, 32, of Princeton, dead at the scene. Mr. Thompson's nephew, Richard Lambert, 21, of Kegley, died at a Roanoke,

Virginia, hospital on the following day. The third victim, Ethan Kestner, 19, also of Princeton, is still recovering from his injuries; and

Whereas, All three young men were known to be good employees of the turnpike authority, as well as decent, law-abiding citizens. Mr. Thompson and Mr. Lambert were both known as beloved family members. Since the time of the tragic accident, the entire Mercer County community has been saddened by the loss of the two young men and united in its thoughts and prayers for the recovery of Mr. Kestner; and

Whereas, All three young men are a special fraternity of employees who are partners in public service. Many public servants toil in often dangerous situations. While they take extraordinary precautions to ensure the safety of themselves and the public they serve, there is always an element of potential danger inherent in any occupation that must be performed in close proximity to large, heavy, fast-moving vehicles; and

Whereas, Partners in public service hope to return home to their families at the end of each duty assignment. When that does not happen, the sadness that ensues is shared by more than just their families and friends; and

Whereas, It is fitting that an enduring memorial be established to commemorate Nathan Thompson and Richard Lambert; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying US 19 over Interstate 77 in Mercer County, the “Thompson-Lambert Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signed identifying the bridge as the “Thompson-Lambert 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.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 16**, Authorizing expenditure of surplus funds by Wyoming County 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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 16) 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 30**, Eliminating tax on annuity considerations collected by life insurer.

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 30 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 30) 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 90**, Transferring Safety and Treatment Program from DHHR 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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 90) 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 237**, Improving ability of law enforcement to locate and return missing persons.

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 237 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 237) 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 263**, Limiting number of days legislators may be compensated during extended and extraordinary sessions if budget bill not enacted.

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 263 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale,

Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 263) 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 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to 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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 323) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano,



Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 323) 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 343**, Relating to review and approval of state property leases.

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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 343) 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 346**, Changing rate which certain judges are paid for mileage when traveling within 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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

So, a majority of all the members present and voting 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 and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 356**, Requiring MAPS provide state and federal prosecutors information.

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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

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. 356) 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 453**, Relating to background checks of certain financial institutions.

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: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Mann, Maroney, and Palumbo—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 453) 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.

**Com. Sub. for Senate Bill 13**, Relating to distributions from State Excess Lottery Fund.

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

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

**Com. Sub. for Com. Sub. for Senate Bill 14**, Creating WV Farm-to-School Grant Program.

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

**Com. Sub. for Senate Bill 19**, Relating to Senior Farmers Market Nutrition Program.

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

**Com. Sub. for Com. Sub. for Senate Bill 317**, Authorizing three or more adjacent counties form multicounty trail network authority.

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

**Com. Sub. for Senate Bill 352**, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

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

**Com. Sub. for Senate Bill 408**, Determining indigency for public defender services.

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

**Com. Sub. for Senate Bill 496**, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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

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

On page six, section five, lines five and six, by striking out the following: Applications for licensure shall be accompanied by a fee prescribed by the commissioner.

The bill (Com. Sub. for S. B. 496), as amended, was then ordered to third reading.

**Senate Bill 499**, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

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

**Senate Bill 542**, Relating to registration fees for military-related special registration plates.

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

**Com. Sub. for Senate Joint Resolution 5**, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment.

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 2191**, Relating generally to limited video lottery.

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

**Eng. Com. Sub. for House Bill 2307**, Relating to creating a provisional license for practicing barbering and cosmetology.

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.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 26**, Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems.

**Senate Bill 153**, Providing greater flexibility for making infrastructure project grants.

**Senate Bill 440**, Relating to Antihazing Law.

**Senate Bill 442**, Supplementing, amending, and decreasing appropriation to Insurance Commission.

**Senate Bill 443**, Supplemental appropriation of federal moneys to DHHR divisions.

**Senate Bill 444**, Supplemental appropriation to DHHR divisions.

**Senate Bill 452**, Supplemental appropriation to Second Chance Driver's License Program.

**Com. Sub. for Senate Bill 491**, Extending effective date for voter registration in conjunction with driver licensing.

**Eng. House Bill 2459**, Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

And,

**Eng. House Bill 2492**, Relating to mandatory reporting procedures of abuse and neglect of adults and children.

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

On motion of Senator Takubo, at 11:59 a.m., the Senate adjourned until Monday, February 11, 2019, at 11 a.m.

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## MONDAY, FEBRUARY 11, 2019

The Senate met at 11:10 a.m.

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

Prayer was offered by the Reverend Frank Miller, Director of Operations for the Parchment Valley Conference Center in Ripley, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Richard D. Lindsay II, a senator from the eighth district.

Pending the reading of the Journal of Friday, February 8, 2019,

At the request of Senator Maroney, 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 communication from a state agency as required by the provisions of law:

Tourism, Division of (§5B-2I-4)

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, 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 240**, Repealing certain legislative rules no longer authorized or are obsolete.

On motion of Senator Takubo, 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 12. REPEAL OF UNAUTHORIZED AND OBSOLETE RULES.**

**§64-12-1. Department of Administration.**

The legislative rule effective March 18, 2002, authorized under the authority of §12-3-10a of this code, relating to the Department of Administration (state Purchasing Card Program, 148 CSR 7), is repealed.

**§64-12-2. Department of Environmental Protection.**

(a) The legislative rule effective June 1, 1995, authorized under the authority of §22-1-3 of this code, relating to the Department of Environmental Protection (abandoned mine lands reclamation rule, 59 CSR 1), is repealed.

(b) The legislative rule effective May 10, 2001, authorized under the authority of §22-1-3 of this code, relating to the Department of Environmental Protection (certification of gas wells, 35 CSR 7), is repealed.

**§64-12-3. Department of Military Affairs and Public Safety.**

(a) The legislative rule effective October 8, 1994, authorized under the authority of §31-20-5(v) of this code, relating to the Regional Jail and Correctional Facility Authority (handbook of inmate rules and procedures, 94 CSR 5), is repealed.

(b) The legislative rule effective March 21, 2008, authorized under the authority of §31-20-29 of this code, relating to the Regional Jail and Correctional Facility Authority (furlough program for regional jails, 94 CSR 6), is repealed.

(c) The legislative rule effective April 28, 2014, authorized under the authority of §31-20-10(h) of this code, relating to the



Regional Jail and Correctional Facility Authority (criteria and procedures for determination of projected cost per day for inmates incarcerated in regional jails operated by the authority, 94 CSR 7), is repealed.

(d) The legislative rule effective March 21, 2008, authorized under the authority of §31-20-31 of this code, relating to the Regional Jail and Correctional Facility Authority (work program for regional jail inmates, 94 CSR 8), is repealed.

(e) The legislative rule effective June 3, 1996, authorized under the authority of §31-20-9 of this code, relating to the Regional Jail and Correctional Facility Authority (West Virginia minimum standards for construction, operation, and maintenance of jails, 95 CSR 1), is repealed.

#### **§64-12-4. Department of Tax and Revenue.**

(a) The legislative rule effective May 31, 1991, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commissioner (health insurance benefits for temporomandibular and craniomandibular disorders, 114 CSR 29), is repealed.

(b) The legislative rule effective April 29, 2008, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commissioner (guaranteed loss ratios as applied to individual sickness and accident insurance policies, 114 CSR 31), is repealed.

(c) The legislative rule effective July 1, 2002, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commissioner (external review of coverage denials, 114 CSR 58), is repealed.

(d) The legislative rule effective May 6, 2005, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commissioner (small employer eligibility requirements, 114 CSR 73), is repealed.

#### **§64-12-5. Department of Transportation.**

The legislative rule effective April 2, 1986, authorized under the authority of §17A-2-9 of this code, relating to the Division of Motor Vehicles (eligibility for reinstatement following suspension or revocation of driving privileges, 91 CSR 16), is repealed.

**§64-12-6. Miscellaneous agencies, boards, and commissions.**

The legislative rule effective July 1, 2013, authorized under the authority of §30-30-6 of this code, relating to the Board of Social Work Examiners (applications, 25 CSR 4), is repealed.

**§64-12-7. Bureau of Commerce.**

The legislative rule effective August 6, 1971, authorized under the authority of §47-5-1 of this code, relating to the Division of Labor (Safety Glazing Act, 42 CSR 13), is repealed.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 240**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6, and §64-12-7, all relating generally to repealing certain legislative rules promulgated by certain agencies, boards, and commissions which are no longer authorized or are obsolete; authorizing certain agencies and commissions under the Department of Administration, Department of Environmental Protection, Department of Military Affairs and Public Safety, Department of Tax and Revenue, Department of Transportation, miscellaneous agencies, boards, and commissions, and the Bureau of Commerce to repeal certain legislative rules; repealing the Department of Administration legislative rule relating to the state Purchasing Card Program; repealing the Department of Environmental Protection legislative rule relating to abandoned mine lands reclamation; repealing the Department of Environmental Protection legislative rule relating to certification of gas wells; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to handbook of inmate rules and procedures; repealing the Regional

Jail and Correctional Facility Authority legislative rule relating to furlough program for regional jails; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to criteria and procedures for determination of projected cost per day for inmates incarcerated in regional jails operated by the authority; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to work program for regional jail inmates; repealing the Regional Jail and Correctional Facility Authority legislative rule relating to West Virginia minimum standards for construction, operation, and maintenance of jails; repealing the Insurance Commission legislative rule relating to health insurance benefits for temporomandibular and craniomandibular disorders; repealing the Insurance Commission legislative rule relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies; repealing the Insurance Commission legislative rule relating to external review of coverage denials; repealing the Insurance Commission legislative rule relating to small employer eligibility requirements; repealing the Division of Motor Vehicles legislative rule relating to eligibility for reinstatement following suspension or revocation of driving privileges; repealing the Board of Social Work Examiners legislative rule relating to applications; and repealing the Division of Labor legislative rule relating to the Safety Glazing Act.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 240, 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, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 240) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 240) 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. Senate Bill 354**, Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

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 2392**—A Bill to amend and reenact §11-16-6b of the Code of West Virginia, 1931, as amended; to amend and reenact §11-16-11a of said code, to amend said code by adding thereto a new section, designated §11-16-11b; and to amend said code by adding thereto a new section, designated §60-

6-27, all relating to the Alcohol Beverage Control Commissioner; permitting licensed brewpubs, Class A retail dealers, Class B retail dealers, private clubs, Class A retail licensees and Class B retail licensees to serve complimentary samples of nonintoxicating beer or nonintoxicating craft beer manufactured in the State of West Virginia; removing restrictions on Class A retail licensees' ability to serve complimentary nonintoxicating beer samples to customers; permitting the commissioner to issue special one-day licenses for the retail sale of nonintoxicating beer and alcoholic liquors to a duly organized nonprofit corporation, limited liability entity or an association having received federal tax-exempt status, when raising money for artistic, athletic, charitable, educational or religious purposes.

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 2545**—A Bill to amend and reenact §17A-10-8 of the Code of West Virginia, 1931, as amended, relating to exempting recipients of the Purple Heart, Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal medals from payment of the vehicle registration fee for West Virginia residents under defined circumstances.

Referred to the Committee on Military.

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 2546**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §17A-3-4a, relating to excluding the value of durable medical equipment or mobility enhancing equipment when determining the value of the vehicle for imposition of the tax on the privilege of effecting the certification of title of the vehicle.

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, 2019, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2554**—A Bill to repeal §18-5-16a of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-5-16 of said code, relating to transfers and enrollment policies for students in public schools.

Referred to the Committee on Education.

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 2601**—A Bill to amend and reenact §5A-10-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-10-12, all relating to the real estate division; requiring the review and approval of grounds, buildings, office and other space leases; and providing for review and approval of leasing grounds, buildings, office and other space to nongovernmental entities.

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. House Bill 2696**—A Bill to amend and reenact §14-1-20 and §14-1-21 of the Code of West Virginia, 1931, as amended, all relating to creating an additional index system for state-owned lands; providing that the county courts submit a list of lands the state obtained to the Auditor; providing that the Auditor create an index system; providing that the Auditor create a standard naming system; and providing for rule-making authority relating to the index system.

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 2737**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1-1b, relating to providing training for State Tax Division employees.

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 2740**—A Bill to amend and reenact §42-1-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §42-1-11 and §42-1-12, all relating to inheritance; barring a parent from inheriting from or through a child of the parent in certain instances; and permitting a child to inherit from a parent in certain instances.

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 2746**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-2-19a; and to amend and reenact section §44-3A-24 of said code, all relating to administration of estates; requiring reports by fiduciary commissioners of unprogressed estates; allowing the county commission to close an estate administratively; providing an appeal procedure; and providing that personal representatives are liable for failure to all persons with an interest in the assets of such an estate.

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 2759**—A Bill to amend and reenact §41-5-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-1-4 of said code; and to amend said code by adding thereto a new section, designated §44-1-14b, all relating to the administration of estates and providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

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 2815**—A Bill to amend and reenact §61-3-13 of the Code of West Virginia, 1931, as amended, relating to raising the value of goods or chattels that are taken in a larceny to constitute grand larceny.

Referred to the Committee on the Judiciary.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 8, 2019, he had approved **Enr. Senate Bill 119**.

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 8th day of February, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 177)**, Fire Commission rule relating to State Building Code.



And,

(**Com. Sub. for S. B. 255**), Relating to Emergency Medical Services Advisory Committee.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Maroney, 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

**Senate Bill 60**, Licensing practice of athletic training.

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

**Com. Sub. for Senate Bill 60** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6, and §30-20A-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §30-20A-8, §30-20A-9, §30-20A-10, §30-20A-11, §30-20A-12, §30-20A-13, §30-20A-14, §30-20A-15, and §30-20A-16, all relating to licensing the practice of athletic training; making the practice of athletic training unlawful without license or permit; establishing applicable law; defining terms; establishing eligibility for license; defining the scope of practice; establishing requirements for reciprocal agreements; establishing requirements for temporary permits; establishing renewal requirements; establishing requirements for delinquent or expedited licenses; establishing requirements for an active license; creating exemptions; requiring display of license; establishing complaint process and investigation procedures; establishing grounds for disciplinary action; establishing hearing

procedures and right to appeal; providing for judicial review of decision; and providing criminal penalties.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Boso, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from 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

**Senate Bill 66**, Prohibiting certain misleading lawsuit advertising practices.

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

**Com. Sub. for Senate Bill 66** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, and §46A-6N-4, all relating to prohibiting certain misleading lawsuit advertising practices; providing for certain disclosures and warnings in lawsuit advertising for the protection of patients; defining terms; prohibiting the disclosure of protected health information for legal solicitation; imposing criminal penalties; and recognizing the authority of the judiciary, the State Bar, or the Lawyer Disciplinary Board to regulate the practice of law.

And,

**Senate Bill 339**, Allowing certain persons carry pepper spray in State Capitol Complex.

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

**Com. Sub. for Senate Bill 339** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-6-19a, relating to clarifying that persons 16 years of age and older may possess pepper spray on the State Capitol Complex, and in the buildings thereon, solely for self-defense purposes; defining terms; and authorizing the Director of the Division of Protective Services to temporarily prohibit the possession of pepper spray on the State Capitol Complex and in the buildings thereon during designated special events.

With the recommendation that the two committee substitutes 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

**Com. Sub. for Senate Bill 74**, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

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

**Senate Bill 261**, Relating to number of magistrates serving each county.

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

**Com. Sub. for Senate Bill 261** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-1-2, §50-1-6, and §50-1-9a of the Code of West Virginia, 1931, as amended, all relating generally to magistrate courts; establishing the number of magistrates to serve in each county of the state; providing immediately for one additional magistrate than is currently serving to serve in Berkeley County; providing immediately for one additional magistrate than is currently serving to serve in Jefferson County; providing for one additional magistrate in than is currently serving to serve Logan County beginning on July 1, 2019; providing for one additional magistrate than is currently serving to serve in Monongalia County beginning on July 1, 2019; providing immediately for one additional magistrate than is currently serving to serve in Putnam County; providing for election of one less magistrate than is currently serving by eliminating one magisterial office in McDowell County beginning on January 1, 2021; providing for the initial filling of vacancies in newly created magisterial offices; and increasing the total number of magistrate court deputy clerks that may be appointed in the state.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 261), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Takubo, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Prezioso, Romano, Stollings, Unger, and Hamilton:**

**Senate Bill 564**—A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-5-12 of said code, all relating to expanding comprehensive coverage for pregnant women through Medicaid to 185 percent of the federal poverty level; providing coverage for 60 days postpartum; and expanding comprehensive coverage for pregnant women between 185 percent and 300 percent of the federal poverty level including prenatal care, delivery, and 60 days postpartum through the Children's Health Insurance Program.

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

**By Senator Boso:**

**Senate Bill 565**—A Bill to amend and reenact §11-2-3 of the Code of West Virginia, 1931, as amended, relating to removing the residency requirements for hiring deputy assessors.

Referred to the Committee on Government Organization.

**By Senator Boso:**

**Senate Bill 566**—A Bill to amend and reenact §29-5A-1 of the Code of West Virginia, 1931, as amended, relating to compensation for members of the State Athletic Commission for attendance and participation at public meetings.

Referred to the Committee on Government Organization.

**By Senators Maroney, Tarr, and Cline:**

**Senate Bill 567**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-19, relating to permitting West Virginia Board of Medicine investigators to carry a concealed weapon.

Referred to the Committee on the Judiciary.

**By Senators Weld, Maroney, Cline, and Hamilton:**

**Senate Bill 568**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 569**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f, relating to interagency procurement of commodities and services; and authorizing state spending units to enter into contracts for commodities and services with other state spending units.

Referred to the Committee on Government Organization.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 570**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5A-3-3c of said code, all relating to allowing state spending units to enter into certain contracts, without bids, resulting from the response, recovery, and relief for a declared state of emergency.

Referred to the Committee on Government Organization.

**By Senators Woelfel, Ihlenfeld, Beach, and Baldwin:**

**Senate Bill 571**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §53-

9-1, §53-9-2, §53-9-3, §53-9-4, §53-9-5, §53-9-6, §53-9-7, §53-9-8, §53-9-9, §53-9-10, §53-9-11, §53-9-12, §53-9-13, §53-9-14, §53-9-15, §53-9-16, §53-9-17, §53-9-18, and §53-9-19, all relating to establishing a method for courts to order financial exploitation protection orders; providing for definitions; requiring confidentiality of the proceedings; establishing certain conditions to review or copy proceeding files; providing for persons to file a petition; providing for applicability; establishing the information that must be contained within the petition for relief; creating temporary financial exploitation orders issued by a magistrate; providing for the transfer of a temporary financial exploitation order to circuit court; granting jurisdiction to circuit courts for a transfer; providing for respondent's right to be heard; requiring notice to be served on the respondent; establishing procedures for victims with diminished capacity; establishing the circuit court to issue the final financial exploitation protection order; specifying the forms of relief; requiring the final order be served on the respondent; establishing procedures for modification and rescission of temporary or final financial exploitation orders; establishing rights and procedures for appeal; requiring a statement concerning violations of the temporary or final financial exploitation order; establishing penalties; establishing the priority of petitions in the circuit court; providing for fees and costs; providing for exemptions to fees and costs under certain conditions; requiring service by law enforcement; establishing rule-making authority with the Supreme Court of Appeals; providing limitations on the use of information from proceedings; and providing for procedures to seal records of proceedings.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Azinger, Maynard, Smith, Sypolt, Roberts, and Cline:**

**Senate Bill 572**—A Bill to amend and reenact §11-1C-11a of the Code of West Virginia, 1931, as amended, relating to prohibiting a county assessor from reclassifying managed timberland property without first providing the property owner the opportunity to submit the appropriate information; and establishing a fine.

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

**By Senators Jeffries, Lindsay, Stollings, Beach, and Baldwin:**

**Senate Bill 573**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-1-16 and §16-1-16a, all relating to social determinants of health; establishing the Minority Health Advisory Team, including its composition and duties; authorizing a Community Health Equity Initiative Demonstration Project; authorizing the Commissioner of the Bureau for Public Health to establish a Community Health Equity Initiative Demonstration Project; establishing eligibility requirements; providing for the administration of the demonstration project; establishing requirements for a demonstration project plan and the selection of communities for participation; establishing reporting requirements; and establishing the date on which the demonstration project terminates.

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

Senators Tarr, Boley, Clements, Cline, Hamilton, Maynard, Roberts, Rucker, Smith, Sypolt, Takubo, Stollings, Jeffries, Maroney, and Baldwin offered the following resolution:

**Senate Concurrent Resolution 27**—Requesting the Joint Committee on Government and Finance to complete a study to determine the supply/shortage of drivers with commercial driver's licenses (CDL's), to determine whether there are drivers of age 18 to 21 with CDL's sufficient for meeting any shortage and if they are able to be insured, and to explore establishing an insurance pool specifically for CDL drivers age 18-21 for the solid waste industry.

Whereas, It is important that a supply of skilled and safe drivers be available for employment by the solid waste industry; and

Whereas, Many companies report difficulty in obtaining and retaining commercial drivers; and



Whereas, It is recognized that it may be difficult to obtain insurance at a reasonable cost for young and inexperienced drivers; and

Whereas, It is in the best interests of the state to assist in ensuring that solid waste companies are able to provide their services to the public; and

Whereas, Public sector insurance pools may be an acceptable way to reduce the cost of insuring younger commercial drivers; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested to complete a study to determine the supply/shortage of drivers with commercial driver's licenses (CDL's), to determine whether there are drivers of age 18 to 21 with CDL's sufficient for meeting any shortage and if they are able to be insured, and to explore establishing an insurance pool specifically for CDL drivers age 18-21 for the solid waste industry; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 Weld, Ihlenfeld, Rucker, Stollings, Hamilton, Lindsay, Swope, Jeffries, Beach, Maroney, and Baldwin offered the following resolution:

**Senate Resolution 36**—Recognizing Bethany College on the 179th anniversary of its charter.

Whereas, Bethany College, located at Bethany in Brooke County, was chartered by the Commonwealth of Virginia as a college on March 2, 1840, and was recognized as a college by the new State of West Virginia in 1863, and, is therefore, the oldest baccalaureate institution in continuous operation in the State of West Virginia; and

Whereas, Alexander Campbell, one of the principal founders of the Christian Church (Disciples of Christ) in the United States, established Bethany College for the “Instruction of youth in the various branches of science and literature; the useful arts and foreign languages” and while Bethany College is affiliated with the Christian Church, the church exercises no sectarian control on the college; and

Whereas, Bethany College has provided its students with an excellent liberal education to prepare them for service in a myriad of careers in all areas of society, including medicine, the law, the economy, education, and service, as well as generations of young men and women as ministers of the gospel and missionaries of the faith to all parts of the world; and

Whereas, Bethany College has also produced numerous political leaders both for the United States, including a Speaker of the United States House of Representatives, and governments abroad, including a member of the Mother of Parliaments in Westminster, England; and

Whereas, Bethany College has a long connection with chief executives of the government of the United States, including Board of Trustees member, James A. Garfield, and other U. S. presidents who have visited the Bethany College campus, including John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Gerald Ford; and

Whereas, Bethany College became an early proponent of the admission of female students in 1878 and has continued its commitment to provide an education to a diverse population in all areas, and is currently recognized as featuring the most diverse

student population of any baccalaureate institution in West Virginia; and

Whereas, Bethany College sustains some of the most enduring academic traditions with all students required to pass comprehensive exams and submit senior projects in their majors, while continuing to be a leader in innovative curricula with new majors in cybersecurity and interdisciplinary sports medicine, as well as aspirational initiatives to expand its international education and impact on the public health issues facing our state; and

Whereas, Bethany College has repeatedly answered the call to service to the nation in times of peril, such as helping to establish the V-12 Program for the United States Navy during World War II, when nearly 1,000 naval personnel participated in an accelerated degree program to become engineering officers in the great struggle against fascism and Japanese militarism; and

Whereas, Bethany College is one of the largest employers in Brooke County and occupies a campus of several hundred developed acres within the village of Bethany, including two buildings designated National Historic Landmarks, Old Main and the Campbell Mansion, as well as other structures listed on the National Register of Historic Places; and

Whereas, From 1840, when Alexander Campbell served as the first president of the college, only 20 individuals have served as president, with Dr. Tamara Rodenberg now serving as the second woman in that position. Among those 20 presidents was former West Virginia Governor, Cecil Underwood, who served as Bethany College's 13th president from 1972-1975; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Bethany College on the 179th anniversary of its charter; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Bethany College.

At the request of Senator Weld, 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 Takubo, and by unanimous consent, the remarks by Senators Weld and Ihlenfeld regarding the adoption of Senate Resolution 36 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:27 a.m., the Senate recessed to present Senate Resolution 36.

The Senate reconvened at 11:31 a.m. and resumed business under the sixth order.

Senators Romano, Facemire, Stollings, Hamilton, Lindsay, Swope, Jeffries, Beach, and Baldwin offered the following resolution:

**Senate Resolution 37**—Congratulating John Cobb, Jr., for being named West Virginia's Outstanding Tree Farmer for 2019.

Whereas, John Cobb, Jr., owns and manages a 327-acre tree farm in Lewis County, West Virginia; and

Whereas, John Cobb, Jr., was selected as West Virginia's Outstanding Tree Farmer for 2019 by the West Virginia Tree Farm Committee and its state sponsor, the West Virginia Forestry Association; and

Whereas, John Cobb, Jr., made a formal commitment to sound forest management practices by enrolling in the West Virginia Tree Farm Program; and

Whereas, John Cobb, Jr., is committed to the long-term productivity of his property by implementing a forest management program that promotes good growth, improves the overall quality of the property, and generates income from the possible sale of forest products; and

Whereas, A primary objective of the West Virginia Tree Farm Program is to successfully enhance wildlife and recreation, which John Cobb, Jr., fulfills by managing stands for wildlife habitat, including the cerulean warbler, in a 10-acre project; and

Whereas, John Cobb, Jr., has become a leader in his community since locating in Lewis County and an advocate to improve the land and the lives of his fellow citizens; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates John Cobb, Jr., for being named West Virginia's Outstanding Tree Farmer for 2019; and, be it

*Further Resolved*, The Senate commends John Cobb, Jr., for his dedication and commitment to sound forest management practices; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to John Cobb, Jr.

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.

On motion of Senator Takubo, at 11:34 a.m., the Senate recessed to present Senate Resolution 37.

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

### **Petitions**

Senator Sypolt presented a petition from Kelli Whytsell and 41 Calhoun County school employees, supporting Senate Bill 125 (*Providing counties with less than 1,400 net enrollment be considered to have 1,400 in determining basic foundation program only*).

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 26**, Thompson-Lambert 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 Com. Sub. for Senate Bill 14**, Creating WV Farm-to-School Grant 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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 Com. Sub. for S. B. 14) 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 19**, Relating to Senior Farmers Market Nutrition 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 19) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 19) 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 Com. Sub. for Senate Bill 317,** Authorizing three or more adjacent counties form multicounty trail network authority.

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 Committee Substitute for Senate Bill 317 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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 Com. Sub. for S. B. 317) 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 352**, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 352) 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 408**, Determining indigency for public defender 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 408) 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 496**, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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 496 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Lindsay, and Palumbo—3.

Absent: Facemire—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. 496) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Lindsay, and Palumbo—3.

Absent: Facemire—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. 496) 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 499**, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 499) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. 499) takes effect July 1, 2019.

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

**Eng. Senate Bill 542**, Relating to registration fees for military-related special registration plates.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Facemire—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 542) 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 5**, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment.

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

On the adoption of the resolution, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Rucker, Smith, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, and Stollings—6.

Absent: Facemire—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for S. J. R. 5) adopted, as follows:

**Eng. Com. Sub. for Senate Joint Resolution 5**—Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the

impeachment of officials generally; clarifying that a separate vote in an impeachment trial is necessary to preclude a person convicted from holding a position of honor, trust, or profit under the state; clarifying that a separate vote of two thirds of the members of the Senate is necessary to disqualify a person having been impeached and convicted from an office of honor, trust, or profit under the state; providing that rules of practice and procedure for impeachment proceedings and impeachment trials are not subject to judicial review; specifying that state courts are without authority to stay or enjoin impeachment proceedings; designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2020, which proposed amendment is that section nine, article IV thereof, be amended to read as follows:

#### **ARTICLE IV.**

##### **§9. Impeachment of officials.**

Any officer of the state may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments and no person shall be convicted without the concurrence of two thirds of the members elected thereto. When sitting as a court of impeachment, the ~~president~~ Chief Justice of the Supreme Court of Appeals, or, if from any cause it be improper for him or her to act, then any other ~~judge~~ justice of that court, to be designated by it, shall preside; and the senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment shall not extend further than removal from office and, if a conviction is had, ~~and~~ disqualification of the person convicted to hold any office of

honor, trust, or profit, under the state by a concurrence of two thirds of the members elected to the Senate; but the party convicted shall be liable to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments.

Rules of practice or procedure adopted by the House of Delegates or the Senate for impeachment proceedings or by the Senate for a trial on articles of impeachment shall not be subject to judicial review or judicial interpretation.

No court of this state shall have the authority to stay or enjoin an impeachment proceeding or a trial of impeachment.

*Resolved further*, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby designated as the “Clarification of the Judiciary’s Role in Impeachment Proceedings Amendment”, and the purpose of the proposed amendment is summarized as follows: “Declaring that rules of practice or procedure of the House of Delegates and Senate relating to impeachment and trials of impeachment are not subject to judicial review or interpretation and that courts of this state have no authority to stay or enjoin impeachment proceedings of the House of Delegates or impeachment trials in the Senate; clarifying that a separate vote of two thirds of the members of the Senate is required to disqualify a person from any office of honor, trust, or profit; and removing maladministration as a basis for removal from office.”

*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 2191**, Relating generally to limited video lottery.

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

On motion of Senator Takubo, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 2307**, Relating to creating a provisional license for practicing barbering and cosmetology.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Hamilton—1.

Absent: Facemire—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. 2307) 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.

**Com. Sub. for Senate Bill 13**, Relating to distributions from State Excess Lottery Fund.

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

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

On page twelve, section eighteen-a, lines two hundred eighty-two and two hundred eighty-three, by striking out “§29-22A-10(a)(2)” and inserting in lieu thereof “§29-22A10b(a)(2)”.

The bill (Com. Sub. for S. B. 13), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 26**, Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems.

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

**Senate Bill 153**, Providing greater flexibility for making infrastructure project grants.

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

**Senate Bill 440**, Relating to Antihazing Law.

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

**Senate Bill 442**, Supplementing, amending, and decreasing appropriation to Insurance Commission.

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

**Senate Bill 443**, Supplemental appropriation of federal moneys to DHHR divisions.

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

**Senate Bill 444**, Supplemental appropriation to DHHR divisions.

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

**Senate Bill 452**, Supplemental appropriation to Second Chance Driver's License Program.

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



**Com. Sub. for Senate Bill 491**, Extending effective date for voter registration in conjunction with driver licensing.

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

**Eng. House Bill 2459**, Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

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

On motion of Senator Tarr, 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 2. COMMISSIONER OF HUMAN SERVICES;  
POWERS; DUTIES AND RESPONSIBILITIES  
GENERALLY**

**§9-2-3a. Authorized exemption from federal law; exceptions.**

Pursuant to the authority and option granted by 21 U.S.C. §862a(d)(1)(A) to the states, West Virginia exempts all individuals domiciled within the state from the application of 21 U.S.C. §862a(a)(2) unless the offense of conviction has as an element thereof misuse of supplemental nutrition assistance program benefits, loss of life, or the causing of physical injury.

Following discussion,

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

The bill (Eng. H. B. 2459), as amended, was then ordered to third reading.

**Eng. House Bill 2492**, Relating to mandatory reporting procedures of abuse and neglect of adults and children.

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:

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

### **ARTICLE 6. SOCIAL SERVICES FOR ADULTS.**

#### **§9-6-11. Reporting procedures.**

(a) A report of neglect or abuse of an incapacitated adult or facility resident or of an emergency situation involving such an adult shall be made immediately ~~by telephone~~ to the department's local adult protective services agency by a method established by the department, *Provided*, That if the method for reporting is web-based, the Department of Health and Human Resources shall maintain a system for addressing emergency situations that require immediate attention and shall be followed by a written report by the complainant or the receiving agency within 48 hours. The department shall, upon receiving any such report, take such action as may be appropriate and shall maintain a record thereof. The department shall receive ~~such~~ telephonic reports on its 24-hour, seven-day-a-week, toll-free number established to receive calls reporting cases of suspected or known adult abuse or neglect.

(b) A copy of any report of abuse, neglect, or emergency situation shall be immediately filed with the following agencies:

(1) The Department of Health and Human Resources;

(2) The appropriate law-enforcement agency and the prosecuting attorney, if necessary; or

(3) In case of a death, to the appropriate medical examiner or coroner's office.

(c) If the person who is alleged to be abused or neglected is a resident of a nursing home or other residential facility, a copy of the report shall also be filed with the state or regional ombudsman and the administrator of the nursing home or facility.

(d) The department shall omit from such report in the first instance, the name of the person making a report, when requested by such person.

(e) Reports of known or suspected institutional abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation in an institution, nursing home, or other residential facility shall be made, received, and investigated in the same manner as other reports provided for in this article. In the case of a report regarding an institution, nursing home, or residential facility, the department shall immediately cause an investigation to be conducted.

(f) Upon receipt of a written complaint, the department shall coordinate an investigation pursuant to §9-6-3 of this code and applicable state or federal laws, rules, or regulations.

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

#### **§49-2-809. Reporting procedures.**

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately ~~by telephone~~ to the ~~local~~ department of child protective services by a method established by the department, *Provided*, That if the method for reporting is web-based, the Department of Health and Human Resources shall maintain a system for addressing emergency situations that require immediate attention and shall be followed by a written report within 48 hours if so requested by the receiving agency. The state department shall establish and maintain a 24-hour, seven-day-a-week telephone number to receive ~~those~~ calls reporting suspected or known child abuse or neglect.

(b) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner's office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

The bill (Eng. H. B. 2492), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 40**, Establishing Military Service Members Court program.

**Senate Bill 47**, Providing wind power projects be taxed at real property rate.

**Com. Sub. for Com. Sub. for Senate Bill 285**, Relating to sale of homemade food items.

**Com. Sub. for Senate Bill 291**, Relating generally to survivor benefits for emergency response providers.

**Senate Bill 296**, Providing 11-month window to permit members of PERS to purchase credited service.

**Com. Sub. for Senate Bill 345**, Relating to fire service equipment and training funds for VFDs.

**Com. Sub. for Senate Bill 405**, Increasing limit on additional expenses incurred in preparing notice list for redemption.

**Senate Bill 461**, Providing for personal income tax withholding on certain lottery winnings.

**Com. Sub. for Senate Bill 481**, Relating to Judicial Vacancy Advisory Commission.

And,

**Eng. Com. Sub. for House Bill 2446**, Blue Alert Plan.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Blair, Smith, Woelfel, Sypolt, Maroney, and Weld.

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

At the request of Senator Sypolt, unanimous consent being granted, the remarks by Senator Smith were ordered printed in the Appendix to the Journal.

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

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senators Smith and Sypolt and prayer was offered by Senator Roberts.

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Facemire.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:39 p.m., the Senate adjourned until tomorrow, Tuesday, February 12, 2019, at 11 a.m.

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## TUESDAY, FEBRUARY 12, 2019

The Senate met at 11:11 a.m.

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

Prayer was offered by Pastor Ron McClung, Mount Vernon Baptist Church, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Glenn D. Jeffries, a senator from the eighth district.

Pending the reading of the Journal of Monday, February 11, 2019,

At the request of Senator Mann, 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 communication from a state agency as required by the provisions of law:

Senior Services, Bureau of (§16-5P-14)

The Senate 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. Senate Bill 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments to the Senate 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. House Bill 2351**, Relating to regulating prior authorizations.

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

Delegates Ellington, Hollen, and Staggars.

On motion of Senator Takubo, 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 Maroney, Takubo, 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2365**—A Bill to amend and reenact §21A-1A-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §23-2-1a of said code, relating to the definition of employee for the purposes of the unemployment compensation and workers compensation laws.

Referred to the Committee on the Judiciary.

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 2462**, Issuing a certificate to correctional employees to carry firearms.

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 2583**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, §16-56-4, §16-56-5 and §16-56-6, all relating to permitting a pharmacist to dispense a self-administered hormonal contraceptive under a standing prescription drug order; defining terms; providing certain authority to the State Health Officer; clarifying that certain federal requirements are applicable; establishing protocol to be followed; requiring the pharmacist to be trained; providing guidelines to dispensing; and clarifying that the Board of Pharmacy regulates the actions of Pharmacist acting under this article.

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 2661**—A Bill to amend and reenact §24-2-4c of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-3-7 of said code, all relating to the powers of the Public Service Commission and the regulation of natural gas utilities; permitting a natural gas utility to make a request for proposal for incentivized gas drilling where dependable, lower-priced supplies of natural gas are not readily available; permitting the natural gas utility to recover certain costs; and permitting a natural gas utility to recover costs reasonably necessary to convert some customers to alternate fuel sources when gas service to that customer has been or is to be abandoned.

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

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 2809**—A Bill to amend and reenact § 20-14-8 of the Code of West Virginia, 1931, as amended, relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area; increasing fines for persons who do not remain within and on a designated and marked trail within the Hatfield-McCoy Recreation Area; and increasing fines for persons who do not remain within and on a designated and marked trail within the Hatfield-McCoy Recreation Area and cause property damage to a landowner's property outside the designated and marked trails or interfere with a landowner's or lawful possessor's use of property outside the designated and marked trails within the Hatfield-McCoy Recreation Area.

Referred to the Committee on the Judiciary.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 11, 2019, he had approved **Enr. Committee Substitute for Senate Bill 17**.

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 266** (originating in the Committee on the Judiciary), Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

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

**Com. Sub. for Com. Sub. for Senate Bill 266** (originating in the Committee on Finance)—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §23-5-15 of said code; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend and reenact §51-

9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to the West Virginia Appellate Reorganization Act of 2019; creating an Intermediate Court of Appeals in West Virginia; providing that the Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies in the Intermediate Court of Appeals; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals and that petitioners have a right to review in such court; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; providing that the Workers' Compensation Board of Review may continue to certify questions of law directly to the Supreme Court of Appeals; requiring that appeal of contested cases under State Administrative Procedures Act be made to the Intermediate Court of Appeals; placing judges of Intermediate Court of Appeals under the judicial retirement system; establishing the Intermediate Court of Appeals by a certain date; providing a short title; providing legislative findings; defining terms; requiring a three-judge panel for proceedings; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing a process for initial appointment of judges to the Intermediate Court of Appeals to staggered judicial terms, and to 10-year terms on the expiration of terms thereafter; providing for the filling of vacancies in unexpired judicial terms by appointment; providing that the Governor's appointments are subject to Senate confirmation; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during judicial term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; requiring the Chief Judge of the Intermediate Court of Appeals to publish and submit certain reports to the Legislature and Supreme Court of Appeals regarding pending cases; authorizing filing fees; providing for deposit of filing fees in a special

revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing that certain appeals are reviewed and a written decision issued by either the Intermediate Court of Appeals or the Supreme Court of Appeals, as a matter of right; removing obsolete language from the code; and making technical corrections to the code.

With the recommendation that the committee substitute for committee substitute 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

**Senate Bill 393**, Protecting right to farm.

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

**Com. Sub. for Senate Bill 393** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-19-7, all relating to the right to farm; providing for an amended definition of “agriculture”; providing for protections to agriculture operations from nuisance litigation if the facility has been in operation for more than one year; providing for the exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation; and prohibiting punitive damages being awarded to a claimant for nuisance actions originating from an agricultural operation.

**Senate Bill 516**, Relating to attorney fees in subsidized adoptions.

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

**Com. Sub. for Senate Bill 516** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to the payment of attorney’s fees in subsidized adoptions or guardianships directly to the attorney; requiring an attorney to submit certain documentation to the caseworker responsible for the child or children; and requiring Department of Health and Human Resources to pay invoices within 45 days, if funds are available.

**Senate Bill 518**, Restricting sale and trade of dextromethorphan.

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

**Com. Sub. for Senate Bill 518** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-417, relating to restricting the sale and trade of dextromethorphan; defining terms; setting age limits; and providing for a misdemeanor penalty.

And,

**Senate Bill 563**, Prohibiting sexual assault victim be subjected to certain physical examinations.

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

**Com. Sub. for Senate Bill 563** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-8B-11 of the Code of West Virginia, 1931, as amended, relating generally to evidence in prosecutions for sexual offenses; prohibiting an alleged victim from being required to submit to or undergo certain physical examinations in prosecutions for sexual offenses; defining “sexual offense”; and providing that an alleged victim’s refusal to submit to or undergo certain physical examinations does not preclude admission of evidence regarding other relevant physical examinations.

With the recommendation that the four committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Eng. Com. Sub. for House Bill 2521**, Relating to permitting fur-bearer parts.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Maroney and Stollings:**

**Senate Bill 574**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to permitting an authorized physician to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill; setting forth a procedure; defining terms; and limiting liability.

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

**By Senators Takubo and Maroney:**

**Senate Bill 575**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7L-1, §55-7L-2, §55-7L-3, §55-7L-4, §55-7L-5, §55-7L-6, §55-7L-7, §55-7L-8, §55-7L-9, §55-7L-10, §55-7L-11, §55-7L-12, §55-7L-13, §55-7L-14, §55-7L-15, and §55-7L-16, all relating to the creation of long-term care medical review panels; providing definitions; requiring the West Virginia State Bar to administer the medical review panel program; specifying process for selection of medical review panel; establishing eligibility requirements for medical review panelists; clarifying circumstances in which a

panelist may be removed; setting forth time limitations; allowing courts to render sanctions for noncompliance with statutory requirements; specifying evidence to be considered by medical review panel; setting forth powers and duties of the panelists; requiring panel to determine whether applicable standard of care has been violated; requiring production of a panel opinion; providing that costs and attorney's fees may be awarded if a claim is unsuccessfully pursued following the issuance of an adverse panel opinion; providing civil immunity for panel members; and allowing for payment of panelists, expenses, and fees.

Referred to the Committee on the Judiciary.

**By Senators Smith, Sypolt, Boso, and Maroney:**

**Senate Bill 576**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-10A-1, §22-10A-2, §22-10A-3, §22-10A-4, §22-10A-5, §22-10A-6, §22-10A-7, §22-10A-8, §22-10A-9, and §22-10A-10, all relating to creating the Orphan Oil and Gas Well Prevention Act; providing for a short title; providing for legislative findings and declarations; providing for restrictions to permit oil and natural gas wells, certain prohibitions, and requiring plugging assurance requirements; providing for limitations on the transfer of wells; providing for responsibility of previous operators to plug transferred wells; providing for different methods for operators to provide plugging assurance of wells including for wells not producing in paying quantities; providing administrative and management responsibilities for the Chief of the Office of Oil and Gas and the State Treasurer regarding plugging assurance funds; providing clarifications regarding the duties of mineral and surface owners; providing for rule-making authority and severability; and providing an effective date.

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

**By Senator Takubo:**

**Senate Bill 577**—A Bill to repeal §20-2-42n, §20-2-42q, and §20-2-42r of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-42a, §20-2-42d, §20-2-42j, §20-2-42k, §20-

2-42p, §20-2-42s, §20-2-42t, §20-2-42x, and §20-2-42y of said code, all relating to repealing the Class N resident and Class NN nonresident antlerless deer hunting stamp, the Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer, and the Class RM resident and Class RRM nonresident muzzle-loader deer hunting stamp for an additional deer; allowing one whitetail deer of either sex and three antlerless deer with a Class A resident hunting and trapping license, Class E nonresident hunting and trapping license, Class X resident hunting, fishing, and trapping license, Class XJ resident junior and Class XXJ nonresident junior hunting, fishing, and trapping license, Class XS resident senior hunting, fishing, and trapping license, and Class AH, AHJ, AAH, and AAHJ apprentice hunting and trapping licenses; modifying the cost of the licenses; allowing an additional antlered deer with an antler point restriction of three visible tines on the main beam above the brow tine on one antler to be taken with a Class RG resident and Class RRG nonresident gun deer hunting stamp, and providing certain limitations with regard to such licenses; and decreasing fees for Class UU nonresident archery deer hunting stamp and the Class VV nonresident muzzle-loading deer hunting stamp.

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

**By Senator Unger:**

**Senate Bill 578**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; and to amend and reenact §18-9A-2 of said code, all relating to establishing an education employees' fund; requiring county school boards to establish a fund; specifying purpose of expenditures from the fund; and allocating a portion of revenue from county levies.

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

**By Senators Stollings, Plymale, and Prezioso:**

**Senate Bill 579**—A Bill supplementing and amending by increasing existing items of appropriation of public moneys out of



the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senator Swope:**

**Senate Bill 580**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-28-1, relating generally to the Local Control and Accountability Act; providing counties with authority to impose a one percent county sales tax under certain circumstances; clarifying that a county sales tax does not apply in municipalities already imposing a municipal sales tax; clarifying applicability of county sales tax when a portion of the county is annexed by a municipality with an existing municipal sales tax; and requiring counties imposing a county sales tax to use the services of the Tax Commissioner to administer the tax.

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

**By Senator Lindsay:**

**Senate Bill 581**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-30-14a, relating to social workers; and creating a litigation practice license for social workers.

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

**By Senators Beach and Stollings:**

**Senate Bill 582**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to the exemption of certain hygiene products from sales tax.

Referred to the Committee on Finance.

**By Senators Azinger and Boso:**

**Senate Bill 583**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-9-1, §31A-9-2, §31A-9-3, §31A-9-4, §31A-9-5, §31A-9-6, §31A-9-7, §31A-9-8, and §31A-9-9, all relating to creating the financial technology sandbox program for the testing of financial products and services in West Virginia; defining terms; authorizing the Division of Financial Institutions to accept applications for participation and to authorize waivers of certain statutes and rules covering the regulation of financial services offered to consumers in this state; establishing standards and procedures for accepting applications, operations, and supervision by the Division of Financial Institutions; authorizing reciprocity agreements with other regulators; requiring criminal history background checks; creating an account for the deposit of funds generated under the program; requiring a consumer protection bond; specifying standards for the suspension and revocation of a participant's authorization under the program; authorizing rules and orders; creating a new unit under the Division of Financial Services for the management of the program; and providing for effective dates.

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

**By Senator Azinger:**

**Senate Bill 584**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-11-21, relating to requiring contractors performing work for government contracts on computers use software to verify the hours the contractor worked on the computer.

Referred to the Committee on Government Organization.

**By Senators Weld, Ihlenfeld, Lindsay, Woelfel, Boso, Palumbo, Romano, Plymale, Prezioso, and Tarr:**

**Senate Bill 585**—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to defining the term “stalking” as a repeated course of conduct; and including stalking with existing penalties.

Referred to the Committee on the Judiciary.

**By Senators Maynard and Jeffries:**

**Senate Bill 586**—A Bill to amend and reenact §20-1-17 of the Code of West Virginia, 1931, as amended, relating to prohibiting the Natural Resources Commission from establishing a bag limit for antlered deer at three or more.

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

**By Senator Trump:**

**Senate Bill 587**—A Bill to amend and reenact §5-16-8a of the Code of West Virginia, 1931, as amended, relating to the West Virginia Public Employees Insurance Agency's reimbursement of air-ambulance providers who provide emergency transportation to individuals covered by the plan.

Referred to the Committee on Finance.

**By Senators Jeffries, Lindsay, Unger, Stollings, and Plymale:**

**Senate Bill 588**—A Bill to amend and reenact §31-15-3 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Economic Development Authority; creating a small business and minority populations economic and workforce development taskforce to assist the Director of the Economic Development Authority in developing and implementing a procedure to address employment, labor force participation, and economic development problems of small business and low income and minority populations of West Virginia; and developing a pilot project that can be used as a model to promote the growth and development of small business to increase employment and labor force participation across West Virginia.

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

**By Senators Lindsay, Woelfel, and Stollings:**

**Senate Bill 589**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-9-101, relating to designating social workers in the Department of Health and Human Resources to promote better student school attendance and performance, and the health and well-being of students at home; describing duties; and limiting use of information obtained.

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

Senators Jeffries, Baldwin, Beach, Facemire, Ihlenfeld, Lindsay, Plymale, Prezioso, Romano, Stollings, Unger, and Hardesty offered the following resolution:

**Senate Concurrent Resolution 28**—Requesting the Division of Highways name a portion of U. S. Route 35 at the intersection with Interstate 64, in Putnam County, the “James Henry Caruthers Memorial Road”.

Whereas, James Henry Caruthers was born on August 11, 1945, to James Henry and Josephine Della “Teeny” Legg Caruthers. He graduated from Poca High School in 1963 and attended Concord College.

Whereas. In 1966, he was drafted into the U.S. Army and proudly and honorably served his country in Vietnam; and

Whereas, Upon his discharge, he returned to his company, Putnam Fabrication. He was also employed by Terradon Corp. and WV Steel. He was elected to three terms as Putnam County Commissioner, and also elected Mayor of Poca and councilman. In 2001, Jim was appointed by Gov. Bob Wise to serve on the WV Statewide Addressing and Mapping Board. He initiated the Putnam County Transportation Committee, which is still in function to this date. He was a member of the Central WV Regional Airport, the Putnam County Republican Executive Committee, the Nitro

Moose, and a life member of the VFW, Post 9097, Hurricane, West Virginia; and

Whereas, While recognized and winning numerous awards for his public service, in 2008, Jim was selected for the PF Tucker Award by the Regional Intergovernmental Council. In 2011, he was proud to receive the Mayo Lester Community Service Award, bestowed upon him by the Putnam County Chamber of Commerce, and, in 2015, was presented with the Distinguished West Virginian Award by Governor Earl Ray Tomblin; and

Whereas, James Henry Caruthers, 72, a life-long resident of Poca, West Virginia, passed away, Wednesday, March 28, 2018, survived by his adoring wife, Kim Blair; son, Jonathan Caruthers (Warrant Officer, USMC, stationed in Beaufort, South Carolina), and his partner, Jillianne Sprague, sons, Jeffrey Blair, Esq. and his wife, Dr. Amy Schultz of Scott Depot, West Virginia, and Brian Blair and partner Desi Andrews of Parkersburg, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate James Henry Caruthers 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 a name portion of U. S. Route 35 at the intersection with Interstate 64, in Putnam County, the “James Henry Caruthers Memorial Road”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of the road as the “James Henry Caruthers 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.

Senators Palumbo, Jeffries, Lindsay, Unger, Plymale, Swope, and Stollings offered the following resolution:

**Senate Resolution 38**—Congratulating the Herbert Hoover High School softball team for winning the 2018 Class AA State Championship.

Whereas, The Herbert Hoover High School softball team had another dominant year on the diamond, recording an undefeated record of 33-0, on their way to claiming their second consecutive Class AA state softball championship; and

Whereas, The Herbert Hoover High School softball team is led by MaxPreps National Coach of the Year, Missy Smith, and assistant coach, Jamanda Rollyson; and

Whereas, The Herbert Hoover High School softball team's roster consists of players: Kirsten Belcher, Mallori Chapman, Mandy Parrish, Ava Young, Rebekah Woody, Megan Seafler, Taylor Carpenter, Jessica Canterbury, Aly Miller, Hailey Strawn, Jacey Prowse, Presley McGee, Delani Buckner (2018 Gatorade Player of the Year & MaxPreps All-American sophomore team), Rylee Nottingham, Brooke Taylor, Kailey Glover, and Cortney Fizer; and

Whereas, In addition to their undefeated record in 2018 and back-to-back state championships, the Herbert Hoover High School softball team was ranked fifth nationally by MaxPreps; and

Whereas, The Herbert Hoover High School softball team is not only dominant on the field, but in the classroom, where the team combined for a GPA of 3.84; and

Whereas, The Herbert Hoover High School softball team displayed their strong will and determination for an entire season and are a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2018 Herbert Hoover High School softball team will be remembered as one of the greatest softball teams in the history of West Virginia sports; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Herbert Hoover High School softball team for winning the 2018 Class AA State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Herbert Hoover High School softball team.

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.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senator Palumbo regarding the adoption of Senate Resolution 38 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:29 a.m., the Senate recessed to present Senate Resolution 38.

The Senate reconvened at 11:34 a.m. and resumed business under the sixth order.

Senators Cline, Romano, and Stollings offered the following resolution:

**Senate Resolution 39**—Urging the United States Congress to amend its law concerning daylight saving time and allow states to move to permanent daylight saving time.

Whereas, Daylight saving time was first implemented in Europe on April 30, 1916, during World War I; and

Whereas, Daylight saving time was first implemented in the United States by President Roosevelt in 1918 to follow the European model and conserve fuel, electricity, and other resources necessary for World War I, and again during World War II; and

Whereas, Both daylight saving acts imposed during war time were repealed or permitted to sunset after war efforts ceased and permit states to impose their own standard time; and

Whereas, In 1966, Congress imposed daylight saving time to supersede local or state times and make daylight saving time permanent for the entire nation; and

Whereas, Individual states should be permitted to return to setting their own standard time; therefore, be it

*Resolved by the Senate:*

That the Congress of the United States is hereby urged to amend its law concerning daylight saving time and allow states to move to permanent daylight saving time.

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representative, and the members of the West Virginia Congressional Delegation so that they may be apprised of the sense of the West Virginia Senate in this matter.

Which, under the rules, lies over one day.

Senators Beach, Jeffries, Romano, and Stollings offered the following resolution:

**Senate Resolution 40**—Stating the West Virginia Senate affirms its support of the protections for West Virginia consumers with preexisting conditions and other patient protections in the Affordable Care Act.

Whereas, There are 740,000 individuals living with a preexisting condition in West Virginia—including 90,600 children; and

Whereas, Nearly one out of four West Virginia adults under age 50 (181,000) have anxiety, depression, or other mental health conditions; and



Whereas, There are 26,000 West Virginia cancer survivors under age 60, including adults and children; and

Whereas, Virtually any health condition that a West Virginian had before joining a health plan could lead to a preexisting condition exclusion, denial of coverage, or price increase, including high blood pressure or cholesterol, diabetes, asthma, and obesity; and

Whereas, There were 540,000 West Virginians enrolled in Medicaid/CHIP in October 2018; and

Whereas, There are more than 410,000 West Virginians enrolled in Medicare; and

Whereas, Attorneys General from 18 states, including West Virginia, have filed suit in the United States District Court for the Northern District of Texas, arguing that the Affordable Care Act is unconstitutional; and

Whereas, This lawsuit puts protections for West Virginians with preexisting conditions at risk in the event they need to purchase their own coverage, the 154,000 West Virginians enrolled (as of December 2018) in the Medicaid Expansion could lose coverage, and threatens all West Virginians who benefit from improvements to Medicare, including reduced costs to seniors for prescription drugs; and

Whereas, On June 7, 2018, the United States Department of Justice refused to defend the constitutionality of the Affordable Care Act, despite the well-established duty of the department to defend federal statutes where reasonable arguments can be made in their defense.

*Resolved by the Senate:*

That the West Virginia Senate affirms its support of the protections for West Virginia consumers with preexisting conditions and other patient protections in the Affordable Care Act; and, be it

*Further Resolved*, That the Senate calls on Attorney General Morrisey to withdraw from the lawsuit; and, be it

*Further Resolved*, That the Senate calls on the West Virginia Legislature to pass state-level protections in the event these provisions are overturned at the federal level; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Speaker of the House, the House Majority Leader, the House Minority Leader, and the President of the West Virginia Senate.

Which, under the rules, lies over one day.

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

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 Bill 590** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-22a, §20-2-23, and §20-2-26 of the Code of West Virginia, 1931, as amended, all relating to permitting guided bear hunts by licensed outfitters and guides; providing the Director of the Division of Natural Resources rule-making authority; setting license fee for outfitter and guide applications; and providing penalties for guides and outfitters.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 27**, Requesting study determining shortage of drivers with CDLs.

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 Senate Bill 13**, Relating to distributions from State 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 13) 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 26**, Permitting certain employees of educational service cooperatives participate in state's teacher retirement 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 26) 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 153**, Providing greater flexibility for making infrastructure project grants.

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

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

**Eng. Senate Bill 440**, Relating to Antihazing Law.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 440) 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 442**, Supplementing, amending, and decreasing appropriation to Insurance 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 442) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 442) 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 443**, Supplemental appropriation of federal moneys to DHHR divisions.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 443) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 443) 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 444**, Supplemental appropriation to DHHR divisions.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 444) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 444) 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 452**, Supplemental appropriation to Second Chance Driver's License 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 452) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 452) 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 491**, Extending effective date for voter registration in conjunction with driver licensing.

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 491 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 491) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 491) 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 2191**, Relating generally to limited video lottery.

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: Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Baldwin, Mann, Maynard, Prezioso, Roberts, and Unger—7.

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. 2191) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Baldwin, Mann, Maynard, Prezioso, Roberts, and Unger—7.

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. 2191) takes effect from passage.

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

**Eng. House Bill 2459**, Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2459) 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 2459**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-3a, relating to exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law and exempting persons convicted of certain offenses from the prohibition against receiving supplemental nutrition assistance program benefits.

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

**Eng. House Bill 2492**, Relating to mandatory reporting procedures of abuse and neglect of adults and 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2492) 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.

**Com. Sub. for Senate Bill 40**, Establishing Military Service Members Court program.

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

**Senate Bill 47**, Providing wind power projects be taxed at real property rate.

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

**Com. Sub. for Com. Sub. for Senate Bill 285**, Relating to sale of homemade food items.

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

**Com. Sub. for Senate Bill 291**, Relating generally to survivor benefits for emergency response providers.

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

On motion of Senator Blair, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, by striking out the section caption and inserting in lieu thereof the following:

**§5H-1-2. First responder survivor benefit.;**

On page one, section five-h, line three, by striking out the word “death” and inserting in lieu thereof the word “survivor”;

On page three, section five-h, line fifty-seven, by striking out the word “death” and inserting in lieu thereof the word “survivor”;

And,

On page four, section five-h, line seventy-four, by striking out the word “death” and inserting in lieu thereof the word “survivor”.

The bill (Com. Sub. for S. B. 291), as amended, was then ordered to engrossment and third reading.

**Senate Bill 296**, Providing 11-month window to permit members of PERS to purchase credited service.

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

**Com. Sub. for Senate Bill 345**, Relating to fire service equipment and training funds for VFDs.

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

**Com. Sub. for Senate Bill 405**, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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

**Senate Bill 461**, Providing for personal income tax withholding on certain lottery winnings.

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

**Com. Sub. for Senate Bill 481**, Relating to Judicial Vacancy Advisory Commission.

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 2446**, Blue Alert Plan.

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.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 60**, Licensing practice of athletic training.

**Com. Sub. for Senate Bill 66**, Prohibiting certain misleading lawsuit advertising practices.

**Com. Sub. for Senate Bill 74**, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

And,

**Com. Sub. for Senate Bill 339**, Allowing certain persons carry pepper spray in State Capitol Complex.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Maroney, Rucker, Beach, Baldwin, and Sypolt.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senators Maroney and Rucker were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senators Beach, Baldwin, and Sypolt were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 22** (*Adopting Revised Uniform Athlete Agents Act of 2015*) and **Senate Bill 391** (*Relating to unlawful discriminatory practices in categories covered by Human Rights Act and Fair Housing Act*).

At the request of Senator Hamilton, the name of Senator Hamilton was removed as a sponsor of **Senate Bill 465** (*Exempting nonpaid volunteers at VFD or emergency services organization from Workers Compensation benefits*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:25 p.m., the Senate adjourned until tomorrow, Wednesday, February 13, 2019, at 11 a.m.

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## WEDNESDAY, FEBRUARY 13, 2019

The Senate met at 11:10 a.m.

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

Prayer was offered by Pastor Jesse Waggoner, Senior Pastor, Mount Calvary Baptist 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 Tuesday, February 12, 2019,

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.

The Senate then proceeded to the third order of business.



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

**Eng. Com. Sub. for House Bill 2330**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-14-3a; to amend said code by adding thereto a new section, designated §29-3B-4a; and to amend said code by adding thereto a new section, designated 29-3D-4a, all relating to allowing military veterans with certain experience to qualify for examination for licensure; providing the qualifications to sit for a plumbers examination; providing qualifications to sit for an electricians examination; providing qualifications to sit for an examination of a sprinkler fitter in training or a journeyman sprinkler fitter.

Referred to the Committee on Military; and then 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 2405**—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, §11-26-19 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 health care related provider tax on certain health care organizations; repealing an outdated tax; defining terms; establishing tax rates; requiring federal approval of tax; setting effective date; and setting a termination date.

Referred to the Committee on Health and Human Resources; and then 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 2674**—A Bill to amend and reenact §18C-3-3 of the Code of West Virginia, 1931, as amended, relating to creating a student loan repayment program for mental health providers; creating a special revenue fund; and providing rulemaking authority to establish the program.

Referred to the Committee on Health and Human Resources; and then 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 2734**—A Bill to amend and reenact §11-13-3f of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13F-1, §11-13F-2 and §11-13F-3 of said code; to amend and reenact §11-24-11 of said code; to amend and reenact §24-2A-5 of said code; and to amend and reenact §24-3-2 of said code, all relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities; providing for application for reduced rates; and authorizing certain tax credits for cost of using reduced rates.

Referred to the Committee on Government Organization; and then 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 2813**—A Bill to amend and reenact §11-15A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15A-6b, all relating generally to collection of use tax; defining terms, requiring collection of use tax by marketplace

facilitators and referrers satisfying certain economic nexus requirements; and specifying internal effective date.

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

**Senate Bill 259**, Expanding Coyote Control Program.

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

**Com. Sub. for Senate Bill 259** (originating in the Committee on Finance)—A Bill to amend and reenact §7-7-6e of the Code of West Virginia, 1931, as amended, relating to expanding the Coyote Control Program by providing for an assessment on breeding cows; providing an option for owners of breeding cows not to participate in the program; requiring notice; and setting forth a purpose.

With the recommendation that the committee substitute 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

**Senate Bill 295**, Relating to crimes against public justice.

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

**Com. Sub. for Senate Bill 295** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating generally to court security; criminalizing the obstruction of a court security officer and certain Fire Marshal's office personnel while they are acting in their official capacities; criminalizing fleeing from a court security officer and certain Fire Marshal's office personnel; criminalizing the disarming or attempted disarming of court security officers and certain Fire Marshal's office personnel; including the investigation of misdemeanor offenses as subject to prohibition against making false statements; criminalizing the making of materially false statements as to misdemeanor and felony investigations to the state Fire Marshal and fire investigators; and setting criminal penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Maroney, 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

**Senate Bill 348**, Relating to tobacco usage restrictions.

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

**Com. Sub. for Senate Bill 348** (originating in the Committee on Health and Human Resources)—A Bill to repeal §16-9A-3 of the Code of West Virginia, 1931, as amended; and to amend and

reenact §16-9A-1, §16-9A-2, §16-9A-7, and §16-9A-8, all relating to tobacco usage restrictions; providing legislative findings and intent; raising the legal age from 18 years of age to 21 years for the selling, furnishing, or distribution of tobacco products; adding definitions; and increasing penalties for violations.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Stollings requested unanimous consent to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

Which consent was not granted, Senator Trump objecting.

Senator Stollings then moved to dispense with the second committee reference of the bill (Com. Sub. for S. B. 348) contained in the foregoing report from the Committee on Health and Human Resources.

The question being on the adoption of Senator Stollings' aforestated motion, 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 14 "yeas" and 19 "nays".

Whereupon, Senator Carmichael (Mr. President) declared Senator Stollings' aforestated motion had not prevailed.

Thereafter, the bill (Com. Sub. for S. B. 348), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Maroney, 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

**Senate Bill 489**, Relating to Pharmacy Audit Integrity Act.

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

**Com. Sub. for Senate Bill 489** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-51-3, §33-51-4, §33-51-7, §33-51-8, and §33-51-9 of said code; and to amend said code by adding thereto a new section, designated §33-51-10, all relating generally to the Pharmacy Audit Integrity Act and the regulation of pharmacy benefit managers; defining terms; requiring pharmacy benefit managers to obtain a license from the Insurance Commissioner before doing business in the state; setting forth terms and fees for licensure of pharmacy benefit managers; authorizing the Insurance Commissioner to promulgate rules for legislative approval relating to licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers; requiring pharmacy benefit managers shall not provide a network comprised only of mail-order benefits; requiring the Insurance Commissioner to enforce the licensure provisions relating to pharmacy benefit managers; providing for the applicability of provisions to pharmacy benefit managers; clarifying that requirements do not apply to certain prescription drug plans; clarifying that an auditing entity may not seek a fee, charge-back, recoupment, or other adjustment from a pharmacy or pharmacist except in certain circumstances; prohibiting a pharmacy benefit manager or third-party entity from reimbursing an entity participating in the federal

340B drug discount program for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies similar in prescription volume that are not 340B entities and shall not assess any fee, chargeback, or other adjustment upon the 340B entity on the basis that the 340B entity participates in the 340B program; and requiring the reporting of certain data relating to the payment of pharmacy claims.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Trump, as chair of the Committee on the Judiciary, requested unanimous consent to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

Which consent was not granted, Senator Plymale objecting.

Thereafter, on motion of Senator Trump, as chair of the Committee on the Judiciary, the second committee reference of the bill (Com. Sub. for S. B. 489) contained in the foregoing report from the Committee on Health and Human Resources was dispensed with.

Senator Clements, 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 Bill 500**, Creating Sewer and Water Infrastructure Replacement Act.

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

**Com. Sub. for Senate Bill 500** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, and §31-15D-5, all relating to creating the Sewer and Water Infrastructure Replacement and Rehabilitation Act; creating the Sewer and Water Infrastructure Replacement and Rehabilitation Fund; providing for funding and administration of the fund; setting forth responsibilities and authorities for the Secretary of Revenue, West Virginia Investment Management Board, State Treasurer, West Virginia Infrastructure and Jobs Development Council, and West Virginia Water Development Authority related to the fund; directing the West Virginia Water Development Authority to create a special sub account in the West Virginia Infrastructure Fund designated the SWIRRA Sub Account; allowing the West Virginia Infrastructure and Jobs Development Council to direct the authority to govern, administer, and account for the SWIRRA Sub Account in the same manner as the West Virginia Infrastructure Fund; providing a short title; defining terms; authorizing grants by the West Virginia Infrastructure and Jobs Development Council; establishing eligibility requirements, limitations, guidelines, and application processes concerning grants; imposing requirements on the West Virginia Infrastructure and Jobs Development Council relating to the Sewer and Water Infrastructure Replacement and Rehabilitation Fund and grants; requiring publication of certain information; setting forth application and engineering study limitations; and requiring rulemaking.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*



The bill (Com. Sub. for S. B. 500), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 502**, Exempting sales of investment metal bullion and coins.

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

**Com. Sub. for Senate Bill 502** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exemptions for the sales of investment metal bullion and investment coins.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Maroney, 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

**Senate Bill 545**, Relating to HIV testing.

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

Respectfully submitted,

Michael J. Maroney,  
*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 550**, Declaring certain claims to be moral obligations of state.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 553**, Relating to federal funds for land-grant institutions.

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

**Com. Sub. for Senate Bill 553** (originating in the Committee on Education)—A Bill to amend and reenact §18-10-3 of the Code of West Virginia, 1931, as amended, relating to federal funds for land-grant institutions.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The bill (Com. Sub. for S. B. 553), under the original double committee reference, was then referred to the Committee on Finance.

Senator Boso, 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 5**, Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions sign.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

Senator Clements, 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 7**, Urging Congress provide exceptions to weight limits on trucks on interstate.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 7** (originating in the Committee on Transportation and Infrastructure)—Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and

axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia.

Whereas, Federal law currently imposes a maximum gross vehicle weight of 80,000 pounds on interstate highways, without any tolerance, and with axle weight restrictions and the bridge formula often reducing such maximum weight; and

Whereas, West Virginia also has an 80,000-pound maximum gross vehicle weight limit, but permits a 10-percent tolerance, raising the permissible maximum weight to 88,000 pounds; and

Whereas, Vehicles transporting commodities through West Virginia often reach our state on interstate highways, but leave the interstate highways system and switch to West Virginia's local roads, taking advantage of the higher weight limit on such routes; and

Whereas, Such practice increases traffic on West Virginia's mountainous country roads, raises safety concerns, and limits economic avenues; and

Whereas, Interstates could safely support the same weight restrictions as those on U.S. routes in West Virginia given that the design standards used for both systems are identical and the weight increase would be minimal; and

Whereas, The West Virginia Department of Transportation, Division of Highways, is poised to address any questions Congress or the U.S. Department of Transportation, Federal Highway Administration, may have to demonstrate the feasibility of this request; and

Whereas, Providing an exception to the existing weight limits and restrictions in Title 23 of the United States Code, including the bridge formula, for vehicles operating on interstate highways in West Virginia will allow more vehicles to travel the safer interstate highways and expand economic access throughout West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Congress is urged to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,  
*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 2481**, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

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 Takubo, 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.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Maroney, Plymale, Tarr, Sypolt, and Boso:**

**Senate Bill 591**—A Bill to amend and reenact §33-45-1 of the Code of West Virginia, 1931, as amended, relating to defining certain terms used in insurance.

Referred to the Committee on Banking and Insurance.

**By Senators Blair, Cline, and Sypolt:**

**Senate Bill 592**—A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to municipal or county taxation of hotel rooms booked through a market facilitator; defining terms; providing for collection and remittance of the tax imposed by any municipality or county; requiring the marketplace facilitator separately state the tax on all bills, invoices, accounts, books of account, and records relating to occupancy or use of a hotel room; and deeming all taxes collected be held in trust by the marketplace facilitator until remitted.

Referred to the Committee on Finance.

**By Senators Maroney, Stollings, and Boso:**

**Senate Bill 593**—A Bill to amend and reenact §16-5B-14 of the Code of West Virginia, 1931, as amended, relating to permitting a critical access hospital to become a community outpatient medical center; establishing certain conditions and requirements; and providing for rule-making authority.

Referred to the Committee on Health and Human Resources.

**By Senators Takubo and Maroney:**

**Senate Bill 594**—A Bill to amend and reenact §30-7A-8 of the Code of West Virginia, 1931, as amended, relating to granting the Board of Examiners for Licensed Practical Nurses the sole authority for the accreditation of nursing schools.

Referred to the Committee on Education.

**By Senators Blair, Boso, Cline, Sypolt, and Maroney:**

**Senate Bill 595**—A Bill to amend and reenact §18-7A-13a of the Code of West Virginia, 1931, as amended, relating to allowing retired teachers to be subsequently employed by the Higher Education Policy Commission, Council for Community and Technical College Education, or state institutions of higher education without any loss of retirement annuity or retirement benefits under certain circumstances.

Referred to the Committee on Education.

**By Senators Weld, Stollings, Baldwin, Boso, Cline, Sypolt, Tarr, and Maroney:**

**Senate Bill 596**—A Bill to amend and reenact §17A-2-12a of the Code of West Virginia, 1931, as amended, relating to including voluntary donations to the Department of Veterans Assistance on forms created by the Division of Motor Vehicles.

Referred to the Committee on Military.

**By Senators Boso and Sypolt:**

**Senate Bill 597**—A Bill to amend and reenact §30-38A-7, §30-38A-12, and §30-38A-17 of the Code of West Virginia, 1931, as amended, all relating to conforming the state law to the federal law for appraisal management companies' registration.

Referred to the Committee on Government Organization.

**By Senators Cline and Lindsay:**

**Senate Bill 598**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year

ending June 30, 2019, to the Department of Military Affairs and Public Safety, Fire Commission, fund 0436, fiscal year 2019, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019, by adding a new line item.

Referred to the Committee on Finance.

**By Senators Tarr, Hamilton, Hardesty, Ihlenfeld, Romano, Rucker, Boso, and Sypolt:**

**Senate Bill 599**—A Bill to amend and reenact §3-5-2, §3-5-7, and §3-5-8 of the Code of West Virginia, 1931, as amended, all relating to the selection process of delegates to national political party conventions.

Referred to the Committee on the Judiciary.

**By Senators Trump and Boso:**

**Senate Bill 600**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §57-5-11a, relating to the preservation and disposal of biological evidence; procedures; and defining terms.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 601**—A Bill to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended, relating to mandatory supervision of adult inmates; authorizing the Commissioner of the Division of Corrections and Rehabilitation to develop mandatory supervised release plans; authorizing the early release of inmates subject to the conditions of a mandatory supervised release plan; providing for return of inmates to a correctional facility for violations of the conditions of mandatory supervised release plans; providing that inmates on mandatory supervised release are considered to be on parole; clarifying that mandatory supervised release is not a commutation of sentence or any other form of clemency; and providing that mandatory



supervised release concludes upon completion of the minimum expiration of sentence.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Lindsay, Stollings, Tarr, and Weld:**  
**Senate Bill 602**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, and §5B-8-5, all relating to creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program; defining terms; defining eligibility; providing terms of the grant; and defining the application process.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senator Tarr:**

**Senate Bill 603**—A Bill to amend and reenact §32A-2-1 and §32A-2-3 of the Code of West Virginia, 1931, as amended, all relating to engaging in the business of currency exchange, transportation, or transmission; providing that currency transmission and money transmission does not include the receipt of currency, the payment of money, or other value that substitutes for money by an agent for a person providing goods or services other than currency transmission or money transmission; and exempting other activities from licensing requirements.

Referred to the Committee on Banking and Insurance.

**By Senators Weld, Ihlenfeld, and Maroney:**

**Senate Bill 604**—A Bill to amend and reenact §16-13A-3 of the Code of West Virginia, 1931, as amended, relating to allowing one member of a public district service board to be a county commissioner of the county commission with authority to appoint the members of the board, regardless of whether the commissioner resides within the district.

Referred to the Committee on Government Organization.

Senators Carmichael (Mr. President), Plymale, Stollings, and Jeffries offered the following resolution:

**Senate Concurrent Resolution 29**—Requesting the Division of Highways name bridge number 18-77-145.78, NB and SB (18A172, 18A173), locally known as Sandy Creek Bridge, carrying Interstate 77 (NB and SB) over Sandy Creek in Jackson County, the “Hershell Lee Thomas Memorial Bridge”.

Whereas, Hershell Lee Thomas was born November 4, 1933, in Sandyville, the son of Orville and Jessie Smith Thomas. He served in the U.S. Army and was a member of the National Rifle Association. Hershell Lee Thomas retired from Ravenswood Aluminum in 1995 after 38 years of service. He was a charter member of the Silverton Fire Department, which started in 1968. Hershell Lee Thomas served as the chief of the department for 25 years. He dedicated his life to helping people in the community; and

Whereas, Hershell Lee Thomas died on December 7, 2016, and was survived by his wife of 64 years, Helen Benson Thomas; son Gregory Thomas and his wife Denise; and daughter Joyce Baltic; and

Whereas, It is fitting that an enduring memorial be established to commemorate Hershell Lee Thomas 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 18-77-145.78, NB and SB (18A172, 18A173), locally known as Sandy Creek Bridge, carrying Interstate 77 (NB and SB) over Sandy Creek in Jackson County, the “Hershell Lee Thomas 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 “Hershell Lee Thomas 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 Smith, Clements, Baldwin, Cline, Sypolt, and Boso offered the following resolution:

**Senate Concurrent Resolution 30**—Applying to and urging Congress to call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States to limit the terms of office that a person may be elected as a member of the United States House of Representatives, and to set a limit on the number of terms that a person may be elected as a member of the United States Senate.

Whereas, The Legislature of West Virginia hereby makes an application to Congress, as provided by Article V of the Constitution of the United States, to call a convention limited to proposing an amendment to the Constitution of the United States to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives, and to set a limit on the number of terms that a person may be elected as a member of the United States Senate; and

Whereas, This application shall be considered as covering the same subject matter as the applications from other states to Congress to call a convention to set a limit on the number of terms that a person may be elected to the House of Representatives of the Congress of the United States and the Senate of the United States; and this application shall be aggregated with same for the purpose of attaining the two thirds of states necessary to require Congress to call a limited convention on this subject, but shall not be aggregated with any other applications on any other subject; and

Whereas, This application constitutes a continuing application in accordance with Article V of the Constitution of the United

States until the legislatures of at least two thirds of the several states have made applications on the same subject; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby petitions and urges Congress to call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States to call a convention limited to proposing an amendment to the Constitution of the United States of America to set a limit on the number of terms that a person may be elected as a Member of the United States House of Representatives or as a Member of the United States Senate; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President and Secretary of the Senate of the United States and to the Speaker, Clerk and Judiciary Committee Chairman of the House of Representatives of the Congress of the United States, and copies to the members of the said Senate and House of Representatives from this state; also to forward copies thereof to the presiding officers of each of the legislative houses in the several states, requesting their cooperation.

Which, under the rules, lies over one day.

Senators Palumbo, Lindsay, Plymale, Stollings, Baldwin, and Jeffries offered the following resolution:

**Senate Concurrent Resolution 31**—Requesting the Division of Highways name bridge number 20-32/3-0.47 (20A683), locally known as NGK Pony Truss, carrying County Route 32/3 over the Pocatalico River in Kanawha County, the “U. S. Army SGT James E. Mattingly Bridge”.

Whereas, James E. Mattingly was born November 14, 1931. He continues to work in the highway construction industry as he has since 1958. James E. Mattingly graduated from Morgantown High School in 1949. He worked briefly as a coal miner and then

enlisted in the U.S. Army, completing a tour of duty stationed in Fort Richardson, Alaska. He was honorably discharged as a Sergeant on October 6, 1952. He married Jeneane “Bonnie” Vorbach on June 22, 1952; and

Whereas, James E. Mattingly entered West Virginia University in 1954, where he majored in geology with minors in math and chemistry, graduating in 1957. His employment included work with a mining engineering company doing coal evaluation and supervising core drilling programs, an engineer in charge of research and drafting of property maps for the State Tax Department, and project engineer, foreman, and estimator on highway projects such as Interstate 81 in Berkeley County, Interstate 79 from Fairmont to Jane Lew, Interstate 64 at Clintonville, and Interstate 64 at South Charleston; and

Whereas, James E. Mattingly’s work also included work on the Sycamore Street bridge in Clarksburg, the Stadium bridge at WVU, Pine Grove bridge, Clarksburg by-pass, 6th Street bridge in Clarksburg, Haywood-Lumberport bridge, Simpson Creek bridge in Bridgeport, the Mud River dam in Lincoln County, restoration of the Chicken Railroad at Sector, the Clovis bridge at Blacksville, Rt 19 at Birch River, and Hurricane bridge, as well as the two bridges that lead to the NGK Spark Plug Plant, a project that was completed because James E. Mattingly put his reputation on the line that it would be constructed and completed on time; and

Whereas, James E. Mattingly has held most offices and served or chaired on most committees of the Construction Association of West Virginia, serving as president for 17 months, from January 1989 through July 1990. He also belonged to the West Virginia Association of Land Surveyors, the Geological Society of America, the American Institute of Professional Geologists, the National Society of Professional Engineers, the West Virginia Chamber of Commerce, and is a charter member and past state president of Professional Engineers in Construction; and

Whereas, It is fitting that this bridge be named to commemorate SGT James E. Mattingly 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 20-32/3-0.47 (20A683), locally known as NGK Pony Truss, carrying County Route 32/3 over the Pocatalico River in Kanawha County, the “SGT James E. Mattingly 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 “SGT James E. Mattingly 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 Hardesty, Lindsay, Beach, Plymale, Stollings, Baldwin, and Jeffries offered the following resolution:

**Senate Concurrent Resolution 32**—Requesting the Division of Highways to name bridge number 23-10-12.56, NB and SB (23A377, 23A378), locally known as Lyburn Bridge, carrying WV 10 over Land Relief in Logan County, the “U. S. Army SSG Henry Kilgore Bridge”.

Whereas, SSG Henry Kilgore was born on December 22, 1922, in Draffin, Kentucky, one of 10 children in his family; and

Whereas, Like many in the Appalachian region at the time, SSG Henry Kilgore’s family struggled to make ends meet and, at age 14, he left school to work in the coal mines to support his family; and

Whereas, Due to a lack of modern equipment, SSG Henry Kilgore mined coal with a pick and shovel and hauled it out with a mule and a cart; and

Whereas, At the age of 20, Sergeant Kilgore was drafted into the U. S. Army to serve his country during World War II. He served in the 33rd Sig Light Construction where he ultimately reached the rank of Staff Sergeant; and

Whereas, SSG Henry Kilgore served in Normandy, Northern France, Ardennes, Rhineland, and Central Europe. He was also present at the Battle of the Bulge and arrived on the beaches of Iwo Jima as American soldiers famously raised an American flag; and

Whereas, SSG Henry Kilgore was honorably discharged from the U. S. Army on December 19, 1945; and

Whereas, SSG Henry Kilgore came home to go back into the coal mines to continue to work for the rest of his working life; and

Whereas, SSG Henry Kilgore married his soul mate, Leona Bartley Kilgore, on February 6, 1946. They were blessed to raise six daughters; and

Whereas, SSG Henry Kilgore selflessly worked in the mines to support his family, even though working conditions were frequently unsafe. He was injured numerous times while on the job, including one occasion where his head was pinned in a roof fall. He was hospitalized for an extended period of time after the accident, suffering broken bones in his face and severe injuries to his eye; and

Whereas, Sergeant Kilgore also acted many times, both during his service in the war and his job as a miner, without concern for his own safety; and

Whereas, It is fitting that an enduring memorial be established to commemorate SSG Henry Kilgore; therefore, be it

*Resolved by the West Virginia Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-10-12.56, NB and SB (23A377, 23A378), locally known as Lyburn Bridge, carrying WV 10 over Land Relief in Logan County, the “U. S. Army SSG Henry Kilgore 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 SSG Henry Kilgore 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, Lindsay, Beach, Plymale, Stollings, Baldwin, Jeffries, and Sypolt offered the following resolution:

**Senate Concurrent Resolution 33**—Requesting the Joint Committee on Government and Finance study the foster care system and its compliance with federal law.

Whereas, Approximately 2.6 million children are currently being raised in grand families, and experts say this number is rising as the opioid epidemic continues to devastate families and communities across the country; and

Whereas, On February 9, 2018, President Donald Trump signed into law the landmark bipartisan Family First Prevention Services Act, as part of Division E in the Bipartisan Budget Act of 2018 (HR 1892). Family First includes long-overdue historic reforms to help keep children safely with their families and avoid the traumatic experience of entering foster care, emphasizes the importance of children growing up in families, and helps ensure children are placed in the least restrictive, most family-like setting appropriate to their special needs when foster care is needed. Family First builds on the original version of the bill passed in the House of Representatives in June 2016 (HR 5456); and



Whereas, Beginning October 1, 2019, states will have the option to use Title IV-E funds for preventative services for eligible children at risk of foster care. This means they are identified in a prevention plan as being at imminent risk of entering foster care. They may safely remain at home or in a kinship placement, if services are provided that prevent entry into foster care. The Family First Prevention Services Act redirects federal funds to provide services to keep children safely with their families and out of foster care. When foster care is needed, federal reimbursement can provide for care in a family based setting or certain residential treatment programs for children with emotional and behavioral disturbance requiring special treatment; and

Whereas, Placement with relatives, also known as grand families, including grandparents, aunts, and uncles, help to reduce the trauma and separation that accompany children's removal from their parents by preserving the children's important connections to their siblings. Research shows that sibling relationships play a major role in how children develop and learn to interact with other people through sibling bonds, just like parent-child bonds, and influence children's developing sense of attachment; and

Whereas, With the passage of P L 115-123 (Short Title - The Family First Prevention Services Act), historic reforms to the child welfare system will improve outcomes for vulnerable children. The act provides struggling and overburdened child welfare agencies with the tools needed to help children and families in crisis, including families impacted by the opioid epidemic; and

Whereas, The West Virginia Legislature has great influence and concern over West Virginia's children and families and acts in the best interest of its constituents, therefore it is imperative to encourage laws that would enable West Virginia to collect the federal benefits offered for the improvement in West Virginia children's lives; therefore, be It

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested to study the foster care system and its compliance with federal law; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance enlist the assistance of other state agencies and departments as necessary in conducting the study; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report its findings, conclusions, and recommendations to the regular session of the Legislature in 2020, 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 Jeffries, Lindsay, Ihlenfeld, Beach, Plymale, Stollings, Baldwin, Cline, Swope, Prezioso, and Maroney offered the following resolution:

**Senate Resolution 41**—Recognizing the West Virginia Kids Cancer Crusaders for their dedication and commitment to fighting childhood cancer.

Whereas, Cancer is the number one cause of death by disease among children, and around 35 percent of children diagnosed with cancer will die within 30 years of diagnosis; and

Whereas, More than 95 percent of childhood cancer survivors will have a significant health-related issue by the time they are 45 years of age; these health-related issues are side-effects of either the cancer, or more commonly, the result of its treatment; and

Whereas, The incidence of childhood cancer is on the increase, averaging 0.6 percent per year since the mid-1970s, resulting in an overall increase of 24 percent over the last 40 years; and

Whereas, The West Virginia Kids Cancer Crusaders are a community of children, families, individuals, organizations, medical professionals, and caregivers with interest in creating awareness, advocating, and providing support and resources for all those West Virginians affected by young adult, adolescence, and childhood cancer; and

Whereas, Since 2014, the West Virginia Kids Cancer Crusaders have helped over 200 families across the state financially; and

Whereas, The West Virginia Kids Cancer Crusaders bring awareness to their cause by declaring September Childhood Cancer Awareness Month, a time to honor and remember children and families affected by cancer, and help rally support to give kids with cancer better outcomes by supporting ground-breaking research; and

Whereas, The West Virginia Kids Cancer Crusaders advocate for their cause through the legislative process, working on legislation to benefit the childhood cancer community, including passage of Senate Bill 590, which passed the West Virginia Legislature in 2018, and created the Cure Childhood Cancer license plate; and

Whereas, The West Virginia Kids Cancer Crusaders partner with hospitals in the state through support of programs and provide gift cards for families; and

Whereas, Under the leadership and guidance of Kelly Wymer, the West Virginia Kids Cancer Crusaders have demonstrated an unwavering commitment to unite and fight childhood cancer; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Kids Cancer Crusaders for their dedication and commitment to fighting childhood cancer; and, be it

*Further Resolved*, That the Senate extends its sincere gratitude and appreciation to the West Virginia Kids Cancer Crusaders for the compassionate work they do; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Kids Cancer Crusaders.

At the request of Senator Jeffries, 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 Takubo, and by unanimous consent, the remarks by Senator Jeffries regarding the adoption of Senate Resolution 41 were ordered extended in the Journal as follows:

SENATOR JEFFRIES: Thank you, Mr. President.

It was on a beautiful day in 2017—and I believe you'll remember that day—that Sandy Westfall pulled me into the Governor's reception room and said there is some great people that I want you to meet. And you and I both met those people that day. And I think of that day as an accidental meeting that was meant to be. I met Kelly Rowan Wymer and many of the children and families who are with us today.

I'm so grateful that our paths crossed. Kelly has taught me so much about the work the Kids Cancer Crusaders do to support West Virginia families. I have learned that there is more needs to be done to bring childhood cancer to the shadows.

Mr. President, President Trump, last week, pledged during the State of the Union about \$500 million for the next 10 years, which is a great boost, but there's more that needs to be done. We hear that 80 percent of the childhood cancers will be cured. That statistic is driven by remarkable progress made in curing childhood leukemia. But, unfortunately, there has been little change in the past 20 years in the cure rates for other childhood cancers.

Last year, St. Jude published an analysis of the genetics of childhood cancers. They found that half of the mutations responsible for tumor's uncontrolled growth, aren't seen in adult cancers. That is why adult therapy cannot simply be weakened for a child. Childhood cancers are different. And that is why there must be more research and specific therapies for children.

I want you to think for a moment, each one of us, about courage. Can you imagine the courage it takes to be Zack, who had one leg amputated a year ago, and then his second leg a few weeks ago, who still works hard to make his mom laugh every day? The courage it takes for Amy, the mom of two-year-old Julie, who was diagnosed with a rare form of brain cancer last October, the day after Amy's dad passed away from melanoma? The courage it takes to be Kelly, who helped her own child through cancer and is now a fierce champion of the families throughout West Virginia?

I think often of these brave children and their families that are with us today—the courage that they have and the strength that they have to be able to get through these situations. All of us face the future with courage, every one of them, with courage, love, and grace. And I want to thank you for allowing me to be a part of your journey, of your survivors, for those that you have lost, and for those that are still fighting.

Mr. President, I ask, please join me in welcoming the families of the West Virginia Kids Cancer Crusaders. And I urge adoption of this resolution.

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On motion of Senator Takubo, at 11:33 a.m., the Senate recessed to present Senate Resolution 41.

The Senate reconvened at 11:41 a.m. and, at the request of Senator Plymale, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Smith, Sypolt, Boso, Swope, and Maroney offered the following resolution:

**Senate Resolution 42**—Recognizing the importance of the Atlantic Coast Pipeline.

Whereas, The Atlantic Coast Pipeline and others are critical to the economic and energy future of the State of West Virginia, providing our state's natural gas production with unprecedented access to new markets; and

Whereas, Studies indicate construction and operation of the Atlantic Coast Pipeline alone will generate massive economic benefits for West Virginia, including almost \$478 million in additional economic activity during the construction period and more than \$15 million in additional economic activity each year after the facility begins operating; and

Whereas, The Atlantic Coast Pipeline and others will create thousands of new job opportunities for the working men and women of West Virginia and significant new tax revenues for many West Virginia counties; and

Whereas, The Atlantic Coast Pipeline and others will help promote our nation's energy independence, helping make the burgeoning natural gas production in West Virginia and adjacent states more available to millions of consumers and reducing the need for energy imports; and

Whereas, The Atlantic Coast Pipeline's environmental impact has been repeatedly and thoroughly analyzed by state and federal agencies, including the West Virginia Department of Environmental Protection, the federal Energy Regulatory Commission, and the U.S. Forest Service, among others, with all of the agencies finding that the project can be built and operated in a manner that protects the natural resources of West Virginia and the other states in its path; and

Whereas, Despite the enormous energy and economic benefits, as well as the positive findings from a broad range of

environmental regulatory agencies, some groups have launched an all-out assault on the Atlantic Coast Pipeline project, with the ultimate aim of forcing its cancelation; and

Whereas, These attacks are not based on the facts regarding the Atlantic Coast Pipeline but are part of what the U.S. Chamber of Commerce describes as a nationwide “keep it in the ground” strategy by some groups to end all uses of fossil fuels in power generation; and

Whereas, These unwarranted attacks have resulted in regulatory and legal proceedings that have repeatedly delayed both the Atlantic Coast Pipeline and the related Supply Header Project; and

Whereas, In response to court orders stemming from these attacks, the Atlantic Coast Pipeline and Supply Header Project have been forced to lay off or delay hiring thousands of skilled construction workers in West Virginia and also in Pennsylvania, Ohio, Virginia, and North Carolina, posing significant hardships for working families and depriving them of paychecks and steady work; and

Whereas, The U.S. Chamber of Commerce report estimates that these delays, through August 2018, have already resulted in the loss of \$2.3 billion in the U.S. Gross Domestic Product as well as \$500 million in lost tax revenue for U.S. states and localities; and

Whereas, The chamber’s study also found that the delays have already deprived U.S. consumers of \$377 million in energy cost savings; and

Whereas, The General President of the Laborers’ International Union of North America (LIUNA) recently said obstructions to the Atlantic Coast Pipeline and other vital energy infrastructure “from activist groups is costing our members jobs and the entire country opportunities”; and

Whereas, The LIUNA general president also emphasized that the economic damage caused by this opposition to new energy projects is “being shouldered by the hard-working men and women who build our nation’s energy infrastructure”; and

Whereas, These assaults and delaying tactics are also a direct threat to West Virginia’s energy production industry, which directly employs more than 22,000 men and women and pays more than \$6 billion in wages annually; and

Whereas, Although the current employment and payroll figures are impressive, further growth will be severely hampered unless new infrastructure such as the Atlantic Coast Pipeline and other pipelines are built to transport West Virginia’s energy production to market; and

Whereas, In addition to this economic damage, the attacks on the Atlantic Coast Pipeline and other interstate natural gas projects have great potential to harm the environment, since other forms of electric generation powered by fossil fuels, such as natural gas, are needed to back up the expansion of the intermittent generation from renewable resources such as solar and wind energy; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the importance of the Atlantic Coast Pipeline; and, be it

*Further Resolved*, That we, the members of the Senate of the 84th Legislature of the State of West Virginia, categorically condemn these counterproductive and economically damaging assaults on the Atlantic Coast Pipeline and other urgently needed energy infrastructure projects; and, be it

*Further Resolved*, That we note that these attacks are denying steady employment and income to thousands of West Virginia workers and their families who would otherwise be employed in the construction and operation of the Atlantic Coast Pipeline and the related Supply Header Project; and, be it



*Further Resolved*, That we find that the attacks are also damaging West Virginia's energy production industry, the source of more than \$6 billion annually in wages to our state's working men and women; and, be it

*Further Resolved*, That we find that the assaults on these projects have great potential to damage the environment by hindering the deployment of electric generation powered by solar power, wind, and other renewable resources, all of which must be backed up with fossil fuel powered generation, such as natural gas; and, be it

*Further Resolved*, That we strongly urge the groups spearheading these assaults to stop their attacks and delaying actions and, in the process, help pave the way for a cleaner and stronger energy future for West Virginia and for the entire nation; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President of the United States, the President Pro Tempore and Secretary of the United States Senate, the members of the West Virginia Congressional delegation, and the news media of West Virginia.

Which, under the rules, lies over one day.

### **Petitions**

Senator Sypolt presented a petition from Robert Vest and 395 Fourteenth Senatorial District residents, supporting Senate Concurrent Resolution 30 (*Urging Congress call convention for Constitutional amendment limiting terms for persons elected to House of Representatives and Senate*).

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 28**, James Henry Caruthers Memorial Road.

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

**Senate Resolution 39**, Urging US Congress allow states to move to permanent daylight saving time.

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

**Senate Resolution 40**, Stating WV Senate affirms support of protections for consumers in Affordable Care Act.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 40**, Establishing Military Service Members Court program.

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 40 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 40) 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 47**, Providing wind power projects be taxed at real property rate.

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: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Hamilton, Ihlenfeld, Palumbo, and Plymale—6.

Absent: Romano—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 47) 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 153**, Providing greater flexibility for making infrastructure project grants.

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 153 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 153) 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 285**, Relating to sale of homemade food items.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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 Com. Sub. for S. B. 285) 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 291**, Relating generally to survivor benefits for emergency response providers.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 291) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 291) takes effect July 1, 2019.

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

**Eng. Senate Bill 296**, Providing 11-month window to permit members of PERS to purchase credited service.

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

Senator Plymale 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 is a member of PERS with past credited service that he may be able to purchase under this bill.

The Chair replied that any impact on Senator Plymale 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 296) 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 345**, Relating to fire service equipment and training funds for VFDs.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 345) 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 405**, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 405) 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 461**, Providing for personal income tax withholding on certain lottery winnings.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 461) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 461) 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 481**, Relating to Judicial Vacancy Advisory 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 481) 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 2446**, Blue Alert Plan.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Romano—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. 2446) 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.

**Com. Sub. for Senate Bill 60**, Licensing practice of athletic training.

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

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

**Com. Sub. for Senate Bill 66**, Prohibiting certain misleading lawsuit advertising practices.

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

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

**Com. Sub. for Senate Bill 74**, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

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

**Com. Sub. for Senate Bill 339**, Allowing certain persons carry pepper spray in State Capitol Complex.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Com. Sub. for Senate Bill 266**, Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

**Com. Sub. for Senate Bill 393**, Protecting right to farm.

**Com. Sub. for Senate Bill 516**, Relating to attorney fees in subsidized adoptions.

**Com. Sub. for Senate Bill 518**, Restricting sale and trade of dextromethorphan.

**Com. Sub. for Senate Bill 563**, Prohibiting sexual assault victim be subjected to certain physical examinations.

**Senate Bill 590**, Permitting guided bear hunts by licensed outfitters and guides.

And,

**Eng. Com. Sub. for House Bill 2521**, Relating to permitting fur-bearer parts.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Jeffries, Stollings, Smith, Blair, and Woelfel.

At the request of Senator Takubo, unanimous consent being granted, a leave of absence for the day was granted Senator Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:32 p.m., the Senate adjourned until tomorrow, Thursday, February 14, 2019, at 11 a.m.

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## THURSDAY, FEBRUARY 14, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by the Reverend Brad Spencer, Canaan Valley Baptist Church, Davis, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Pending the reading of the Journal of Wednesday, February 13, 2019,

At the request of Senator Boley, 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, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 18**, Relating to crimes committed on State Capitol Complex.

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 323**, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

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 2609**—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to presumptions of abandonment and indication of ownership in demand, savings and time deposits held by a financial institution.

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 2647**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-38, relating to establishing a limited lines insurance license for self-storage providers; defining terms.

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 2720**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-15-19; to amend said code by adding thereto a new section, designated §8-15-28; and to amend said code by adding thereto a new section, designated §16-4C-24, all relating to authorizing certain first responders to carry firearms; authorizing supervising entities to authorize ambulance crew members, firefighters, rescue squad members and emergency service personnel to carry firearms; specifying the training required for such persons to be eligible to carry a firearm; and allowing for reimbursement for the cost of the training.

Referred to the Committee on Health and Human Resources; and then 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 2878**—A Bill to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended, relating to updating the controlled substances listed on schedule one.

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

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 14, 2019, he had approved **Enr. Senate Bill 177** and **Enr Committee Substitute for Senate Bill 255**.

The Senate proceeded to the fourth order of business.

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

Your Committee on Pensions has had under consideration

**Senate Bill 11**, Relating to retirement and pension benefits of certain PERS and Teachers Retirement System members who serve in Legislature.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Senate Bill 29**, Creating five-year tax credits for businesses on post-coal mine sites.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 29** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, and §11-28-3, all relating to creating 10-year tax credits for businesses locating on post-coal mine sites; defining terms; setting eligibility requirements for tax credit; establishing amount of tax credit allowed; establishing how the credit may be applied; and providing rule-making authority.

With the recommendation that the committee substitute 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 117**, Relating to incentives for consolidating local governments.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 117** (originating in the Committee on Finance)—A Bill to amend and reenact §7-11B-3, §7-11B-4, and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; and to amend said code by adding thereto a new section, designated §7A-2-5, all relating to incentives for consolidating local governments; amending the definitions of certain terms to include municipalities that successfully consolidated; granting additional powers to governing bodies of municipalities that successfully consolidated; authorizing municipalities that successfully consolidate additional powers related to creation of a development or redevelopment district; allowing consolidation of local governments to include public school districts, library districts, and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; and creating certain incentives for municipalities and counties that form metro governments by consolidation.

With the recommendation that the committee substitute 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 147**, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 147** (originating in the Committee on Finance)—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-16-4 of said code, all relating to shifting funding from the Landfill Closure Assistance Fund to local solid waste authorities

With the recommendation that the committee substitute 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 333**, Exempting automobiles 25 years or older from personal property taxes.

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

**Senate Bill 512**, Regulating pawnbrokers.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 512** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §47-26-2a, all relating to the regulation of pawnbrokers; removing an exception for certain transactions from the report required of all pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage effective January 1, 2021; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor offenses for certain violations; and increasing the penalties for existing criminal offenses related to pawnbrokers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 539**, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 539** (originating in the Committee on Pensions)—A Bill to amend and reenact §15-2A-6 of the Code of West Virginia, 1931, as amended, relating to the accrued benefit of retirees in the West Virginia State Police Retirement System Plan B.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The bill (Com. Sub. for S. B. 539), under the original double committee reference, was then referred to the Committee on Finance.

Senator Maroney, 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

**Senate Bill 546**, Relating to health care provider taxes.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 546** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-27-39, relating generally to health care provider taxes; imposing a contingent 0.13 percent tax on eligible acute care hospitals; and providing an expiration date for the tax.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 546), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Rucker, Boso, Maroney, Tarr, Baldwin, Cline, and Sypolt:**

**Senate Bill 605**—A Bill to amend and reenact §18-2-25a and §18-2-25b of the Code of West Virginia, 1931, as amended, all relating to providing that schools that do not follow established protocol on concussions and head injuries in interscholastic athletics are subject to disciplinary actions by the Secondary Schools Athletics Commission; and providing that schools that do not follow the requirements of their emergency action plans for athletics are subject to disciplinary actions by the Secondary Schools Athletics Commission.

Referred to the Committee on Education.

**By Senators Smith, Sypolt, Boso, Clements, Cline, Roberts, Tarr, Maroney, and Rucker:**

**Senate Bill 606**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2P-1, §16-2P-2, §16-2P-3, §16-2P-4, §16-2P-5, §16-2P-6, §16-2P-7, §16-2P-8, §16-2P-9, §16-2P-10, and §16-2P-11, all relating to

enacting the Fetal Heartbeat Act; prohibiting abortions when a fetal heartbeat is detected; providing that the article applies only to intrauterine pregnancies; providing exceptions; making findings; providing for severability; establishing standards, requirements, and procedures; requiring documentation; requiring notice and acknowledgments; establishing criminal penalties; permitting civil actions; defining terms; and providing for rulemaking.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Blair, Cline, Tarr, Rucker, and Boso:**

**Senate Bill 607**—A Bill to amend and reenact §18-20-2 of the Code of West Virginia, 1931, as amended, relating to requiring county boards of education to provide a camera system in each classroom designated exclusively for students with exceptional needs; and requiring that the system allow authorized parents or guardians of students with exceptional needs to have remote access to the visual feed captured by cameras in the classroom.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senators Beach, Romano, Prezioso, and Jeffries:**

**Senate Bill 608**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate and develop a special hiring procedure for hourly personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the Division of Personnel from classified service hiring procedures upon implementation of the special hiring process; providing exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.

Referred to the Committee on Government Organization.

**By Senators Beach, Baldwin, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Unger, and Woelfel:**

**Senate Bill 609**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-11-1, §9-11-2, §9-11-3, §9-11-4, §9-11-5, §9-11-6, and §9-11-7, all relating to improving the quality of West Virginia’s Medicaid program; establishing a pilot program to implement smart health cards for the transmission of health care related information for certain Medicaid beneficiaries between the Department of Health and Human Resources and public and private health care providers; defining terms; establishing the Smart Health Card Medicaid Pilot Program; providing implementation date for pilot program; outlining goals of the pilot program; setting forth the requirements for establishing the pilot program; setting forth cybersecurity procurement requirements for vendors who provide technology and services relating to the pilot program; setting forth the requirements of the smart health card; restricting disclosure of health information to the same extent as federal HIPAA requirements; establishing annual reporting requirement to the Legislative Committee on Health and Human Resources Accountability; and providing for a sunset clause of June 30, 2024.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Sypolt, Hamilton, Stollings, Romano, and Maroney:**

**Senate Bill 610**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-2D-1, §20-2D-2, and §20-2D-3, all relating to creating a Voluntary WVU Rifle Team Check-off Program on the cost of hunting and fishing license; creating a special fund for this purpose; and providing how funds are to be used.

Referred to the Committee on Government Organization.

**By Senators Roberts, Sypolt, Rucker, Smith, Trump, Cline, Tarr, and Boso:**

**Senate Bill 611**—A Bill to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new section, designated §19-1-3b; to amend and reenact §19-1A-5 of said code; to amend and reenact §19-1B-3 of said code; and to amend and reenact §19-12A-5 of said code, all relating generally to transferring the Division of Forestry from the Department of Commerce to the Department of Agriculture effective July 1, 2019; transferring all authorities, powers, funds, duties, and affiliated boards or commissions of the Division of Forestry from the Division of Forestry to the Department of Agriculture; ensuring legislative rules remain in effect and transfer; permitting the Commissioner of Agriculture to hire the Director of the Division of Forestry and set the director's salary; transferring Division of Forestry employees and director with same salary and benefits; making employees and Director of the Division of Forestry will and pleasure employees of the Commissioner of Agriculture; directing the Commissioner of Agriculture and the Secretary of Commerce to work with the Director of the Division of Forestry to ensure smooth transition; and making technical corrections to recognize the transfer elsewhere in the code.

Referred to the Committee on Government Organization.

**By Senators Weld, Blair, Hamilton, Hardesty, Jeffries, Lindsay, Rucker, Takubo, and Tarr:**

**Senate Bill 612**—A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; and to amend and reenact §29-22C-3 and §29-22C-8 of said code, all relating to allowing for the establishment of a secondary location for simulcast, racetrack video lottery terminals and racetrack table games of licensed racetracks to a secondary location within the current county of the licensed racetrack.

Referred to the Committee on Finance.

**By Senators Maroney, Plymale, Takubo, Jeffries, Hamilton, Stollings, Roberts, Baldwin, and Woelfel:**

**Senate Bill 613**—A Bill to amend and reenact §16-19-3, §16-19-5, and §16-19-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-31 of said code, all relating to permitting individuals to make an anatomical gift on a hunting license; adding definition; permitting the Division of Natural Resources to participate in the Donor Registry; requiring the Division of Natural Resources to conduct education on the election of organ donation on hunting licenses; and requiring the Division of Natural Resources to include the election of organ donation on hunting licenses.

Referred to the Committee on Natural Resources.

**By Senator Blair:**

**Senate Bill 614**—A Bill to amend and reenact §11-8-6e of the Code of West Virginia, 1931, as amended, relating generally to the effect on regular levy rate when appraisal results in tax increase; and allowing an increase of not more than 10 percent in the total projected property tax revenues realized when current levy rates are imposed by the county commission and the municipalities, before requiring a reduction in the levy rate, or holding a public hearing.

Referred to the Committee on Finance.

**By Senators Trump, Plymale, and Boso:**

**Senate Bill 615**—A Bill to amend and reenact §7-7-4 of the Code of West Virginia, 1931, as amended, relating to providing county commissioners an ongoing mechanism to consider compensation increases for elected officials every two years.

Referred to the Committee on Government Organization.

**By Senators Lindsay, Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel:**

**Senate Bill 616**—A Bill to amend and reenact §5-10A-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-10D-1 of said code; and to amend said code by adding thereto



a new article, designated §16-5VV-1, §16-5VV-2, §16-5VV-3, §16-5VV-4, §16-5VV-5, §16-5VV-6, §16-5VV-7, §16-5VV-8, §16-5VV-9, §16-5VV-10, §16-5VV-11, §16-5VV-12, §16-5VV-13, §16-5VV-14, §16-5VV-15, §16-5VV-16, §16-5VV-17, §16-5VV-18, §16-5VV-19, §16-5VV-20, §16-5VV-21, §16-5VV-22, §16-5VV-23, §16-5VV-24, §16-5VV-25, §16-5VV-26, §16-5VV-27, §16-5VV-28, §16-5VV-29, §16-5VV-30, §16-5VV-31, §16-5VV-32, §16-5VV-33, §16-5VV-34, and §16-5VV-35, all relating to the Consolidated Public Retirement Board; providing that the board administer the Emergency Medical Services Retirement System; establishing the Emergency Medical Services Retirement System; setting forth definitions; including application of honorable service condition to plan participants; providing effective dates and voting requirement; establishing federal qualification requirements; providing for liberal construction; providing that plan is not a substitute for Social Security; providing for and setting membership standards; setting forth required contributions from members and employers; creating fund and providing for investments; providing for transfer from Public Employees Retirement System; setting time limits; setting forth notice requirements; providing for the commencement of benefits, federal law maximum benefit limitations, minimum required distributions, and direct rollovers; providing for retirement credited through member's use of accrued annual or sick leave; providing for retirement benefits; setting forth annuity options; providing for refunds in certain circumstances; providing for deferred retirement; providing for forfeitures of benefits; providing awards and benefits for duty-related disability and for other causes; requiring physical examinations; establishing criteria for termination of disability; providing for prior disability; providing awards and benefits to surviving spouse and additional death benefits and scholarships for dependent children; providing for burial benefit; prohibiting double death benefits; establishing exemption from taxation, garnishment, and other process; authorizing certain deductions; establishing the effect of qualified domestic relation orders; prohibiting fraud; establishing criminal penalties; requiring repayment in certain circumstances; providing for treatment of prior military service; establishing effective date of the system; providing voluntary employer participation; establishing starting

date for benefits; limiting county liability; and providing for no forfeiture of benefits if system terminates.

Referred to the Committee on Pensions; and then to the Committee on Finance.

Senators Maroney, Stollings, Baldwin, Beach, Plymale, and Boso offered the following resolution:

**Senate Concurrent Resolution 34**—Requesting the Division of Highways name bridge number 26-2/26-0.13 (26A095), locally known as the Sixth Street Bridge, carrying Sixth Street over West Virginia Route 2 and US Route 250 in Marshall County, the “U. S. Army SPC Julian Lee Berisford Memorial Bridge”.

Whereas, Julian Lee Guthrie Berisford was born in Wheeling on June 13, 1984, to Shelley Guthrie and Julie Berisford, of Moundsville, West Virginia; and

Whereas, Julian Lee Berisford graduated from John Marshall High School in 2002, and studied Parks and Recreation at West Liberty State College; and

Whereas, Julian Lee Berisford was known to his friends and family as someone who was good to be around, ready with a joke or a friendly gesture, and was a fan of fishing and the West Virginia Mountaineers; and

Whereas, Julian Lee Berisford enlisted in the United States Army in 2007 and, after successfully completing paratrooper school, was assigned to the 4th Brigade Combat Team, 25th Infantry Division (Airborne), stationed in Fort Richardson, Alaska, with the rank of Specialist; and

Whereas, During that time, Julian Lee Berisford had also fallen in love with, and became engaged to, Gina Marie Yankovich, whom he married on December 31, 2007, and in November of the following year they had a daughter, Mya; and

Whereas, SPC Julian Lee Berisford was subsequently deployed to Afghanistan as part of Operation Enduring Freedom; and

Whereas, After serving many months in country, SPC Julian Lee Berisford was granted leave and scheduled to come home for a visit to celebrate his daughter's first birthday. But, before the scheduled date of his leave, his team went out on another mission where they came under hostile fire during their patrol. SPC Julian Lee Berisford was killed in the line of duty on November 9, 2009; and

Whereas, It is fitting that an enduring memorial be established to commemorate SPC Julian Lee Berisford 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 26-2/26-0.13 (26A095), locally known as the Sixth Street Bridge, carrying Sixth Street over West Virginia Route 2 and US Route 250 in Marshall County, the "U. S. Army SPC Julian Lee Berisford 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 SPC Julian Lee Berisford Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Takubo, Stollings, Jeffries, Baldwin, Beach, Palumbo, Hardesty, Unger, Plymale, Cline, Romano, Prezioso, and Boso offered the following resolution:

**Senate Resolution 43**—Designating February 14, 2019, as Tiny Hearts Day at the Capitol.

Whereas, The West Virginia Chapter of the American Academy of Pediatrics is a non-profit organization of more than 290 private practice pediatricians, generalists, specialists, medical school faculty, pediatric trainees, nurse practitioners, physician assistants, public health practitioners, and administrators across the state of West Virginia; and

Whereas, The mission of the West Virginia Chapter of the American Academy of Pediatrics is to attain the optimal health and well-being of all infants, children, adolescents, and young adults by uniting and educating pediatricians and facilitating an effective partnership between pediatricians and other child experts and advocates; and

Whereas, Pediatricians play a critical role in improving the health of our citizens; and

Whereas, The prevention of major threats to children's health and the control and management of chronic diseases, obesity, injury, communicable diseases, and other problems cannot be managed solely in the pediatric office; and

Whereas, The 2019 legislative priorities of the West Virginia Chapter of the American Academy of Pediatrics are: Improving access to care, including care for vulnerable populations such as those in foster care and kinship care; maintaining strong immunization laws; obesity prevention and treatment; raising the legal age to purchase tobacco to 21 and promoting tobacco cessation; addressing the opioid epidemic and its impact on children; and firearm injury prevention; and

Whereas, The West Virginia Chapter of the American Academy of Pediatrics will continue to put kids' health first and be a voice for vulnerable children and families in West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 14, 2019, as Tiny Hearts Day at the Capitol; and, be it

*Further Resolved*, That the Senate extends its sincere gratitude and appreciation to the West Virginia Chapter of the American Academy of Pediatrics for the important work they do and for the positive impact they have on the health of West Virginia children and families; 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 Academy of Pediatrics.

At the request of Senator Takubo, 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 Prezioso, and by unanimous consent, the remarks by Senators Takubo and Stollings regarding the adoption of Senate Resolution 43 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:25 a.m., the Senate recessed to present Senate Resolution 43.

The Senate reconvened at 11:29 a.m. and resumed business under the sixth order.

Senators Carmichael (Mr. President), Jeffries, Stollings, Baldwin, Beach, Palumbo, Unger, Plymale, Cline, Prezioso, Rucker, and Boso offered the following resolution:

**Senate Resolution 44**—Designating February 14, 2019, as West Virginia Arts Day at the Legislature.

Whereas, The West Virginia Department of Arts, Culture, and History, the West Virginia Arts Office, and the West Virginia Commission on the Arts support programs, organizations, and individual artists in all 55 counties; and

Whereas, The arts are the embodiment of all things beautiful and entertaining in the world, the enduring record of human achievement; and

Whereas, The arts enhance every aspect of life in West Virginia: Growing our creative economy, enriching our civic life, enhancing tourism, and exerting a profound, positive influence on the education of our children; and

Whereas, Support for the arts advances, fosters, and promotes the traditional and contemporary creativity of our residents through music, theatre, literature, dance, and fine arts; and

Whereas, Arts education research shows that the arts help to foster discipline, creativity, imagination, self-expression, and problem-solving skills while also helping to develop a heightened appreciation of beauty and cross-cultural understanding; and

Whereas, The arts play a unique and intrinsically valuable role in the lives of our families, our communities, and our state; therefore, be it

*Resolved by the Senate:*

That the Senate designates February 14, 2019, as West Virginia Arts Day at the Legislature; and, be it

*Further Resolved,* That the Senate encourages all citizens to celebrate and promote the arts and culture in the Mountain State; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Curator of the West Virginia Department of Arts, Culture, and History.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Takubo, at 11:31 a.m., the Senate recessed to present Senate Resolution 44.

The Senate reconvened at 11:34 a.m. and resumed business under the sixth order.

Senators Plymale, Jeffries, Stollings, Baldwin, Beach, Woelfel, Palumbo, Unger, and Boso offered the following resolution:

**Senate Resolution 45**—Recognizing the Cabell Midland High School Marching Knight Band for its outstanding achievements, and for its dedication and commitment to fine performances of the marching arts.

Whereas, The Cabell Midland Marching Knight Band program has, since its inception in 1994, provided exceptional musical performances; and

Whereas, The band has won 102 Marching Band Grand Championships, six Marshall University Tri-State Marching Band Championships, and three National Band Grand Championships; and

Whereas, The band has excelled in-state as the featured band for 13 years at the Joyful Night Celebration at the State Capitol and is an eight-time winner of the West Virginia Black Walnut Festival Honor Band Award; and

Whereas, The Cabell Midland Marching Knight Band have been named the West Virginia State Marching Band Invitational State Honor Band for seven consecutive years and are the current reigning State Marching Band Champions; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Cabell Midland Marching Knight Band for its outstanding achievements, and for its dedication and commitment to fine performances of the marching arts; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the Cabell Midland Marching Knight Band for proudly representing their school, county, and the great State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Cabell Midland Marching Knight Band.

At the request of Senator Plymale, 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 Prezioso, and by unanimous consent, the remarks by Senators Plymale and Woelfel regarding the adoption of Senate Resolution 45 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:38 a.m., the Senate recessed to present Senate Resolution 45.

The Senate reconvened at 11:46 a.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business,

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 617** (originating in the Committee on Pensions)—  
A Bill to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating to method of payment of municipal contributions to the Municipal Pensions Security Fund.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Michael T. Azinger,  
*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 618** (originating in the Committee on Finance)—A Bill to amend and reenact §11-8-6e of the Code of West Virginia, 1931, as amended, relating to the effect on regular levy rate when appraisal results in tax increase; and allowing an increase of not more than 10 percent in the total projected property tax revenues realized when current levy rates are imposed by the county commission and the municipalities before requiring a reduction in levy rate or holding public hearing.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 5**, Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions sign.

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.

**Com. Sub. for Senate Concurrent Resolution 7**, Urging Congress provide exceptions to weight limits on interstate.

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 29**, Hershell Lee Thomas 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 30**, Urging Congress call convention for Constitutional amendment limiting terms for persons elected to House of Representatives and Senate.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on the Judiciary.

**Senate Concurrent Resolution 31**, SGT James E. Mattingly 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 32**, US Army SSG Henry Kilgore 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 33**, Requesting study of foster care system and compliance with federal law.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

**Senate Resolution 42**, Recognizing importance of Atlantic Coast Pipeline.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Energy, Industry, and Mining.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 74**, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 74) 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 339**, Allowing certain persons carry pepper spray in State Capitol Complex.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 339) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 339) takes effect from passage.

*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.

**Com. Sub. for Senate Bill 60**, Licensing practice of athletic training.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Maroney, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section one, line eighteen, by striking out “.T.”;

On page seven, section four, lines fourteen and fifteen, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision, designating subdivision (4), to read as follows:

“(4) An athletic trainer registration issued by the board prior to January 1, 2020, is considered a license issued under this article: *Provided*, That a person holding a license issued prior to January 1, 2020, must renew the license pursuant to a registration and renewal schedule adopted by the board and the provisions of this article;”

On page eight, section four, line sixteen, by striking out the words “July 1, 2015, submit a current certification, and be in good standing with the BOC and” and inserting in lieu thereof the words “January 1, 2020”;

On page ten, section five, line thirty-three, after the word “trainer” by inserting the words “subject to the “General Supervision” within this article”;

On page ten, section five, line thirty-four, by striking out the word “medical” and inserting in lieu thereof the word “health care”;

And,

On page thirteen, section eight, line one, by striking out the words “biannually before July 1” and inserting in lieu thereof the words “biennially by June 30”.

The bill (Com. Sub. for S. B. 60), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 66**, Prohibiting certain misleading lawsuit advertising practices.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill 266**, Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

At the request of Senator Takubo, and by unanimous consent, the Senate returned to the consideration of

**Eng. Com. Sub. for Senate Bill 66**, Prohibiting certain misleading lawsuit advertising practices.

Having been read a second time and ordered to engrossment and third reading in earlier proceedings today,

On motion of Senator Baldwin, 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 6N. PREVENTION OF DECEPTIVE  
ADVERTISING AND SOLICITATION PRACTICES.**

**§46A-6N-1. Short title.**

This article shall be known and cited as the Prevention of Deceptive Advertising and Solicitation Practices Act.

**§46A-6N-2. Deceptive advertising practices.**

(a) Specifically prohibited advertising practices. — A person engages in a deceptive trade practice if in advertising legal services or pharmaceutical products the person does any of the following:

(1) Fails to disclose at the outset of the advertisement: “This is a paid advertisement for [“legal services” or “a pharmaceutical product”]”;

(2) Presents an advertisement as a “medical alert”, “health alert”, “consumer alert”, “public service announcement”, or similar phrase;

(3) Displays the logo of a federal or state government agency in a manner that suggests affiliation with the sponsorship of that agency;

(4) Uses the word “recall” when referring to a product that has not been recalled by a government agency or through an agreement between a manufacturer and a government agency;

(5) Fails to identify the sponsor of the advertisement; or

(6) Fails to indicate the identity of the attorney, law firm, manufacturer, or, in the case of legal services, how cases will be referred to attorneys or law firms that will represent clients if the sponsor of the advertisement will not represent persons responding to the advertisement.

(b) Disclosures and warnings for protection of patients. —

(1) An advertisement for legal services soliciting clients who may allege an injury from a prescription drug approved, cleared, or the subject of a monograph authorized by the United States Food and Drug Administration shall include the following warning: “Do not stop taking a prescribed medication without first consulting

with your doctor. Discontinuing a prescribed medication without your doctor's advice can result in injury or death".

(2) An advertisement for a lawsuit soliciting clients who may allege an injury from a prescription drug or medical device approved, cleared, or the subject of a monograph authorized by the United States Food and Drug Administration shall disclose that the drug or medical device remains approved by the United States Food and Drug Administration, unless the product has been recalled or withdrawn.

(3) An advertisement for a pharmaceutical product shall include:

(A) The trade/brand name or proprietary name, if any, including name(s) of the active ingredient(s);

(B) The major indication(s) for use;

(C) The major precautions, contra-indications and warnings; and

(D) The average retail price.

(c) Appearance of required statements, disclosures, and warnings. — Any words or statements required by this section to appear in an advertisement must be presented clearly and conspicuously.

(1) Written disclosures shall be clearly legible and, if televised or displayed electronically, shall be displayed for a sufficient time to enable the viewer to easily see and fully read the disclosure or disclaimer.

(2) Spoken disclosures shall be plainly audible and clearly intelligible.

(d) Definitions. — For purposes of this section:



(1) “Legal advertisement” means a solicitation for legal services through television, radio, internet (including a domain name), newspaper, or other periodical, outdoor display, or other written, electronic, or recorded communications.

(2) “Person” includes any person, entity, attorney, or law firm that advertises legal services or identifies potential clients for attorneys or law firms.

**§46A-6N-3. Wrongful use or disclosure of protected health information for solicitation of legal services.**

(a) Use or disclosure of protected health information for legal solicitation. — A person shall not use, cause to be used, obtain, sell, transfer, or disclose to another person without written authorization protected health information for the purposes of soliciting an individual for legal services or pharmaceutical products.

(b) Definitions. — For purposes of this section:

(1) “Person” includes an attorney, law firm, manufacturer, or individual entity that solicits individuals for legal services, pharmaceutical products or identifies potential clients for attorneys or law firms.

(2) “Protected health information” has the meaning given to the term in section 160.103 of title 45, Code of Federal Regulations.

(3) “Solicit” means offer to provide legal services or pharmaceutical products by written, recorded, or electronic communication, or by in-person, telephone, or real-time electronic contact.

(c) Enforcement. —

(1) A violation of this section constitutes a violation of West Virginia’s health privacy laws or §46A-6-101 et seq. of this code.

(2) In addition to any other remedy provided by law, a person who willfully and knowingly violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be confined in jail not more than one year, be fined \$1,000, or both.

(d) Construction. — This provision may not be construed to apply to the use or disclosure of protected health information to an individual's legal representative, in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

**§46A-6N-4. Authority of judiciary or State Bar to regulate practice of law.**

Nothing in this act shall limit or otherwise affect the authority of the judiciary or the Lawyer Disciplinary Board to regulate the practice of law, enforce the West Virginia Rules of Professional Conduct, or discipline persons admitted to the bar.

Senator Trump arose to a point of order that Senator Baldwin's amendment to the bill (Com. Sub. for S. B. 66) was not germane to the bill.

Which point of order, the President ruled well taken.

Whereupon, the bill (Com. Sub. for S. B. 66) was again ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 393, Protecting right to farm.**

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 516, Relating to attorney fees in subsidized adoptions.**

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 518**, Restricting sale and trade of dextromethorphan.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 563**, Prohibiting sexual assault victim be subjected to certain physical examinations.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 590**, Permitting guided bear hunts by licensed outfitters and guides.

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 2521**, Relating to permitting fur-bearer parts.

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.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 259**, Expanding Coyote Control Program.

**Com. Sub. for Senate Bill 295**, Relating to crimes against public justice.

**Com. Sub. for Senate Bill 489**, Relating to Pharmacy Audit Integrity Act.

**Com. Sub. for Senate Bill 502**, Exempting sales of investment metal bullion and coins.

**Senate Bill 545**, Relating to HIV testing.

**Senate Bill 550**, Declaring certain claims to be moral obligations of state.

And,

**Eng. Com. Sub. for House Bill 2481**, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:18 p.m., the Senate adjourned until tomorrow, Friday, February 15, 2019, at 11 a.m.

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## FRIDAY, FEBRUARY 15, 2019

The Senate met at 11:08 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by C. J. Rider, Director of Inmate Services and Activities, West Virginia Division of Corrections and Rehabilitation, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Thursday, February 14, 2019,

At the request of Senator Cline, 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, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 61**, Adding certain crimes for which prosecutor may apply for wiretap.

On motion of Senator Takubo, 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 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.**

**§62-1D-6. Admissibility of evidence.**

Evidence obtained, directly or indirectly, by the interception of any wire, oral or electronic communication shall be received in evidence only in grand jury proceedings and criminal proceedings in magistrate court, ~~and~~ circuit court and any other court of competent jurisdiction: *Provided*, That evidence obtained in violation of the provisions of this article shall not be admissible in any proceeding.

**§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, §61-5-8, §61-5-9, and §61-5-10 or §62-8-1 of this code to the extent that any of said sections provide for offenses punishable as a felony; (3) felony violations of §60A-1-101 et seq. of this code; (4) 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; (10) extortion, as defined in §61-2-13 of this code; or (11) any aider or abettor to any of the offenses referenced in this section or any conspiracy to commit any of the offenses referenced in this section if any aider, abettor, or conspirator is a party to the communication to be intercepted.

**§62-1D-9. Lawful disclosure or use of contents of communication.**

(a) Any investigative or law-enforcement officer who has obtained knowledge of the contents of any wire, oral or electronic communication or evidence derived therefrom, may disclose the contents to another investigative or law-enforcement officer of any state or any political subdivision thereof, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia, only to the extent that the disclosure is

required for the proper performance of the official duties of the officer making or receiving the disclosure, however, a record of such disclosure and the date, time, method of disclosure, and the name of the person or persons to whom disclosure is made shall be forwarded, under seal, to the designated circuit judge who authorized such interception, who shall preserve said record for not less than ten years. In the event the designated judge shall leave office prior to the expiration of this ten-year period, he or she shall transfer possession of said record to another designated judge.

(b) Any investigative or law-enforcement officer who has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom or any investigative or a law-enforcement officer of any state or any political subdivision thereof, the United States or any territory, protectorate or possession of the United States, including the District of Columbia, who obtains such knowledge by lawful disclosure may use the contents to the extent that the use is appropriate to the proper performance of his or her official duties under the provisions of this article.

(c) Any person who has received any information concerning a wire, oral, or electronic communication intercepted in accordance with the provisions of this article or evidence derived therefrom, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding held under the authority of this state, ~~or of~~ any political subdivision of this state, or the federal courts of the United States.

(d) An otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this article does not lose its privileged character: *Provided*, That when an investigative or law-enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized by this article, intercepts a wire, oral, or electronic communication and it becomes apparent that the conversation is attorney-client in nature, the investigative or law-enforcement officer shall immediately terminate the

monitoring of that conversation: *Provided, however,* That notwithstanding any provision of this article to the contrary, no device designed to intercept wire, oral, or electronic communications shall be placed or installed in such a manner as to intercept wire, oral, or electronic communications emanating from the place of employment of any attorney at law, licensed to practice law in this state.

(e) When an investigative or law-enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in §62-1D-9(a), and §62-1D-9(b) of this code. Such contents and any evidence derived therefrom may be used under §62-1D-9(c) of this code when authorized or approved by the designated circuit judge where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this article. The application shall be made as soon as may be practicable after such contents or the evidence derived therefrom is obtained.

(f) Any law-enforcement officer of the United States, who has lawfully received any information concerning a wire, oral or electronic communication or evidence lawfully derived therefrom, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding held under the authority of this state or of the United States.

(g) Any information relating to criminal activities other than those activities for which an order to intercept communications may be granted pursuant to §62-1D-8 of this code may be disclosed only if such relates to the commission of a felony under the laws of this state or of the United States, and such information may be offered, if otherwise admissible, as evidence in any such criminal proceeding.



On motion of Senator Takubo, the following amendment to the House of Delegates amendment to the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill 61**—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including the crime of extortion to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications; permitting for the lawful disclosure of intercepted communications in federal court; and permitting the use of derivative crime evidence to obtain an arrest warrant or indictment.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 61, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Lindsay and Romano—2.

Absent: Boso 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. 61) 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 and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2338**—A Bill to amend and reenact §17A-10-3a the Code of West Virginia, 1931, as amended, relating to allowing the owner of an antique military vehicle to display alternate registration insignia that is compatible with the vehicle's original markings in lieu of a registration plate.

Referred to the Committee on Transportation and Infrastructure.

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 2359**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a relating to providing for a restricted commercial driver's license for motor vehicle operators employed with a farm related service industry.

Referred to the Committee on Transportation and Infrastructure.

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 2673**—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-6-29a, all relating to creating the Oil and Gas Abandoned Well Plugging Fund for use by the West Virginia Department of Environmental Protection to plug abandoned oil and gas wells without a responsible operator; providing for administration of the fund; requiring fees to be deposited in the fund; providing for civil penalties for late payment of fees; providing specific purposes and limitations for use of the fund; providing fees imposed for the fund may not be collected in certain instances; modifying imposition of the tax on the privilege of severing natural gas or oil by marginal oil and gas wells; providing

exemptions from the severance tax; providing exclusions from filing oil and gas severance tax returns; deleting a subsection of the code which expired by its own terms; providing reporting requirements for the Oil and Gas Reclamation Fund and the Oil and Gas Abandoned Well Plugging Fund; and providing a short title.

Referred to the Committee on Energy, Industry, and Mining; and then 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 2709**—A Bill to amend and reenact §20-2-27 of the Code of West Virginia, 1931, as amended, relating to hunting licenses; and exempting the list of names, addresses and contact information for license holders from public disclosure with certain exceptions.

Referred to the Committee on 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 2715**—A Bill to amend and reenact §20-2-46e of the Code of West Virginia, 1931, as amended, relating to Class Q special hunting permit for disabled persons; expanding the conditions of permanent disability for which an individual can obtain a Class Q permit; and providing that physician assistants, advanced practice registered nurses, and chiropractic physicians may certify Class Q permit applications.

Referred to the Committee on Natural Resources; and then 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 2739**—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 employers to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to an employer that is delinquent in required contributions to a retirement plan after the Consolidated Public Retirement Board has certified the delinquency; authorizing withheld moneys to be applied to the retirement system the delinquent payments would have been made to; providing for interest on delinquencies; requiring the Consolidated Public Retirement Board to provide notice to a participating employer 30 days prior to certifying a delinquency under this section; making it a criminal offense for persons who are responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board to knowingly and willfully fail to make employee or employer contributions to a retirement plan for a period of 60 days after the payment is due; and providing criminal penalties.

Referred to the Committee on Government Organization; and then 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 2743**—A Bill to amend and reenact §8-22-11a of the Code of West Virginia, 1931, as amended, relating to eliminating reference to municipal policemen's pension and relief funds and municipal firemen's pension and relief funds in section restricting investment of municipal pension funds as such investment is restricted elsewhere in the code.

Referred to the Committee on Pensions; and then 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, 2019, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2761**—A Bill to amend and reenact §38-14-2, §38-14-3, §38-14-4, §38-14-5, §38-14-7, §38-14-8, and §38-14-9 of the Code of West Virginia, 1931, as amended, all relating to modernizing the self-service storage lien law; modifying late fees; re-defining certain terms; providing modern methods of satisfying a self-service storage lien; and providing a new effective 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 2793**—A Bill to amend and reenact §18-30-2, §18-30-3, §18-30-4, and §18-30-7 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia College Prepaid Tuition and Savings Program; expanding applicability of educational facilities for the West Virginia College Prepaid Tuition and Savings Program; and adding the Superintendent of the Department of Education and a member to represent private institutions of higher education to the Board of the College Prepaid Tuition and Savings Program.

Referred to the Committee on Education.

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 2821**—A Bill to amend and reenact §15-1B-17 of the Code of West Virginia, 1931, as amended, relating to command and clerical pay for certain national guard members; providing for commander pay clerical work for command, clerical and other pay.

Referred to the Committee on Military.

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 2848**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12i; and to amend and reenact §16-48-3 and §16-48-6 of said code, all relating to the West Virginia ABLE Act accounts and the moneys deposited therein; adding and clarifying definitions to conform to federal law; adding an attorney in fact and a parent to the persons authorized to create or manage a West Virginia ABLE accounts as permitted by federal law; amending the age of eligible individuals to conform to federal law; clarifying that a guardian may manage an ABLE account regardless of the amount of a designated beneficiary's assets and that the Department of Health and Human Resources may not manage an ABLE account; adding a federal employer identification number to the items required in an application; authorizing the maximum account value to be the value established by the state of the program manager contracting with the Treasurer; clarifying that moneys in a West Virginia ABLE account or a qualified withdrawal are to be disregarded when determining eligibility for or the amount of public assistance unless required by federal law, moneys in an account or a qualified withdrawal are not subject to claims by the Department of Health and Human Resources unless required by federal law, and on the death of a designed beneficiary moneys in an account are transferred to the estate of the designated beneficiary unless prohibited by federal law; and authorizes contributions to West Virginia ABLE accounts to be subtracted from federal adjusted gross income for purposes of West Virginia personal income taxes and the recapture of amounts subtracted if account funds are used for purposes other than a qualified disability expense; and making various technical revisions.

Referred to the Committee on Finance.

Following a point of inquiry to the President, with resultant response thereto,

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 14th day of February, 2019, 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:

**(H. B. 2462)**, Issuing a certificate to correctional employees to carry firearms.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Clements, 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 Bill 31**, Relating generally to Local Powers Act.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Maroney, 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

**Senate Bill 86**, Requiring county boards provide free feminine hygiene products in grades six to 12.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 86** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; and requiring boards to provide free feminine hygiene products in grades six through 12 to female students not otherwise having access to the products.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 86), under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, 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 310** (originating in the Committee on Health and Human Resources), Establishing certain requirements for dental insurance.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 310** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide a discount on noncovered services; prohibiting dentists from charging covered persons more for noncovered services than his or her customary or usual rate for the services; providing that insurers may not provide for a nominal reimbursement for a service in order to claim that the service or material is covered; and providing for an effective date.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Member.*

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 326**, Reorganizing state agencies involved in emergency and disaster planning.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 326** (originating in the Committee on Government Organization)—A Bill to repeal §15-5-4, §15-5-15a, and §15-5-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend and reenact §15-1J-2 and §15-1J-4 of said code; to amend and reenact §15-5-1, §15-5-2, §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-24, and §15-5-26 of said code; and to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code, all relating to the reorganization of state agencies involved in emergency and disaster planning, response, recovery, and resiliency; providing legislative findings; modifying the powers and duties of the West Virginia Military Authority; designating a special revenue account to receive funding; modifying definitions; reorganizing the Division of Homeland Security and Emergency Management within the Adjutant General's Department; modifying membership of the West Virginia Disaster Recovery Board; reorganizing the State Resiliency Office within the Adjutant General's Department; creating the position of Director of the State Resiliency Office; eliminating paid leave for disaster service volunteers; eliminating the State Resiliency Office Board; and modifying the authority and duties of the State Resiliency Office.

And,

**Senate Bill 580**, Relating generally to Local Control and Accountability Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 580** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-28-1, relating generally to the Local Control and Accountability Act; providing counties with authority to impose a county sales tax of up to one percent under certain circumstances; clarifying that a county sales tax does not apply in municipalities already imposing a municipal sales tax; clarifying applicability of county sales tax when a portion of the county is annexed by a

municipality with an existing municipal sales tax; and requiring counties imposing a county sales tax to use the services of the Tax Commissioner to administer the tax.

With the recommendation that the two committee substitutes do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Committee Substitute for Senate Bill 326 contained in the foregoing report from the Committee on Government Organization.

Committee Substitute for Senate Bill 580, under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 344**, Relating to operation of state-owned farms.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 344** (originating in the Committee on Agriculture and Rural Development)—A Bill to repeal §19-12A-3, §19-12A-7, and §19-12A-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-12A-1, §19-12A-2, §19-12A-5, and §19-12A-6 of said code, all relating to the operation of state-owned farms; clarifying that state-owned farms

are managed by the Commissioner of the Department of Agriculture; removing reference to Farm Management Commission; defining terms; removing language regarding organization and duties of Farm Management Commission; expanding permissive uses and purposes of institutional farms; replacing outdated language referencing to the Department of Health and Human Resources and Division of Corrections and Rehabilitation; authorizing Commissioner of Agriculture to request inmate labor on institutional farms; providing that state institutions may purchase items from vendors that state-owned farms cannot provide; removing references to farm management director and replacing with commissioner; and removing outdated language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill 360**, Relating to third-party litigation financing.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 360** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, §46A-6N-6, §46A-6N-7, §46A-6N-8, and §46A-6N-9, all relating to third-party litigation financing; providing that a litigation financier shall register as a litigation financier in this state; providing registration requirements for business entities,

partnerships, and individuals; providing that litigation financiers shall secure a bond or an irrevocable letter of credit; providing to whom the bond is payable; requiring that the litigation financiers amend their registration if their information changes or becomes inaccurate; providing that the Secretary of State may promulgate rules; providing that the terms of the litigation financing transaction shall be set forth in a completed, written contract; providing that the litigation financing contract shall contain a right of rescission; providing that a litigation financing contract shall contain certain written acknowledgements and disclosures; providing that a litigation financier shall not pay, or offer to pay, commissions, referral fees, or other consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the litigation financier; providing that a litigation financier shall not accept commissions, referral fees, or other consideration; providing that a litigation financier shall not advertise false or misleading information; providing that a litigation financier shall not refer a consumer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist; providing an exception; providing that a litigation financier shall supply copies of the contract to the consumer or consumer's attorney; providing that a litigation financier shall not attempt to waive any of a consumer's remedies; providing that a litigation financier shall not attempt to effect arbitration or otherwise effect waiver of a consumer's right to a jury trial; providing that a litigation financier shall not offer legal advice; providing that a litigation financier shall not assign the litigation financing contract; providing that a litigation financing contract shall contain certain disclosures and terms; providing form disclosures; providing that a violation shall render the contract unenforceable; providing that a court may award costs and attorneys' fees against defendant; clarifying authority of the Attorney General; providing that a contingent right to receive an amount under a legal claim may be assigned by a consumer; providing a priority of liens; providing exceptions for certain liens and claims; providing a maximum annual fee; providing maximum frequency annual fee charges; providing that fees may compound semiannually but not based on any lesser time period; providing means for calculating annual percentage fee or rate of return;

providing maximum terms for fees; and restricting incorporation of prior obligations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 383**, Creating WV Healthy Food Crop Block Grant Program.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 383** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, §19-37-4, §19-37-5, §19-37-6, and §19-37-7, all relating to creating West Virginia Healthy Food Crop Block Grant Program; stating findings; defining terms; creating fund; providing general revenue to fund grants for five years; partnering with nonprofit food and farm organizations; establishing grant selection committee and membership; providing method for allocating grants; limiting grants; providing for rulemaking; and establishing program review reports.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 383), under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 519**, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

**Com. Sub. for Senate Bill 553**, Relating to federal funds for land-grant institutions.

And,

**Senate Bill 587**, Relating to PEIA reimbursement of air ambulance providers.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Dave Sypolt,  
*Member.*

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill 601**, Relating to mandatory supervision of adult inmates.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 601** (originating in the Committee on the Judiciary)—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-4-17a, relating to mandatory supervision of adult inmates generally; authorizing the Commissioner of the Division of Corrections and Rehabilitation to develop mandatory supervised release plans; authorizing the early release of inmates subject to the conditions of a mandatory supervised release plan; providing for return of inmates to a correctional facility for violations of the conditions of mandatory supervised release plans; providing that inmates on mandatory supervised release are considered to be on parole; clarifying that mandatory supervised release plan is not a commutation of sentence or any other form of clemency; and providing that mandatory supervised release concludes upon completion of the minimum expiration of sentence.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

Senator Clements, 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 25**, US Army PFC Andrew “Bo” Martin Harper Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 25** (originating in the Committee on Transportation and Infrastructure)—



Requesting the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U.S. Army PFC Andrew ‘Bo’ Martin Harper Memorial Bridge”.

Whereas, Andrew “Bo” Martin Harper was born August 17, 1991, in Charleston, South Carolina, the son of Steven M. Harper of Maidsville, West Virginia, and Deanna Jeannette Anderson Harper Wells of Middleburg, Florida; and

Whereas, Andrew “Bo” Martin Harper was a 2009 graduate of University High School in Monongalia County where he participated in football, wrestling, and track. He was a member of Young Life of Morgantown and attended Chestnut Ridge Church; and

Whereas, Andrew “Bo” Martin Harper enlisted in the United States Army and obtained the rank of PFC/E3. He was assigned to Iron Troop, 3rd Squadron, 2nd Stryker Cavalry Regiment, Vilseck, Germany; and

Whereas, On March 11, 2011, PFC Andrew “Bo” Martin Harper tragically lost his life conducting combat operations near Kandahar, Afghanistan; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Andrew “Bo” Martin Harper and his sacrifice to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U.S. Army PFC Andrew ‘Bo’ Martin Harper 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 Andrew ‘Bo’ Martin Harper 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,

Charles H. Clements,  
*Chair.*

Senator Boso, 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 2324**, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

Senator Maroney, 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 2607**, Relating to the licensure of nursing homes.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Sypolt, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill 2666**, Supplemental appropriation to the Department of Veterans' Assistance.

And has amended same.

And,

**Eng. House Bill 2668**, Supplemental appropriation to the Department of Administration, Public Defender Services.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Dave Sypolt,  
*Member.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by

their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senator Sypolt:**

**Senate Bill 619**—A Bill to amend and reenact §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6a, §19-2C-6c, §19-2C-8, §19-2C-8a, and §19-2C-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-2C-5b, all relating to amending and updating the laws relating to auctioneers; providing for definitions; providing for exemptions to license requirements; providing for June 30 as the date all licenses expire; establishing certain conditions for auctioneers to continue working after license expiration; providing for record retention requirements; providing for exams held twice a year; providing for auctioneers to submit to background checks; providing for authorization to conduct and use information relating to background checks; providing for confidentiality of background checks; providing for penalties for an unlicensed auctioneer; providing for additional circumstances to revoke a license; providing for written contracts with auctioneers and owners of property; and providing for auction houses and business entities to enter into contracts with auctioneers.

Referred to the Committee on Government Organization.

**By Senators Tarr and Hardesty:**

**Senate Bill 620**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-5-12d, relating to requiring prescriptions be made by electronic means; and providing exceptions.

Referred to the Committee on Health and Human Resources.

**By Senators Rucker, Plymale, and Cline:**

**Senate Bill 621**—A Bill supplementing and amending by adding a new appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Higher Education Policy Commission - Bluefield State College, fund 0354, fiscal year 2019, organization 0482; to the Higher Education Policy Commission -

Concord University, fund 0357, fiscal year 2019, organization 0483; to the Higher Education Policy Commission - Fairmont State University, fund 0360, fiscal year 2019, organization 0484; to the Higher Education Policy Commission - Glenville State College, fund 0363, fiscal year 2019, organization 0485; to the Higher Education Policy Commission - Shepherd University, fund 0366, fiscal year 2019, organization 0486; to the Higher Education Policy Commission - West Liberty University, fund 0370, fiscal year 2019, organization 0488; and to the Higher Education Policy Commission - West Virginia State University, fund 0373, fiscal year 2019, organization 0490, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senator Tarr:**

**Senate Bill 622**—A Bill to repeal §3-8-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-4a, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of said code; and to amend said code by adding thereto five new sections, designated §3-8-1b, §3-8-2d, §3-8-5c, §3-8-9a, and §3-8-9b, all relating generally to the regulation and control of financing elections; modifying findings and definitions; modifying provisions relating to receipts and expenditures in elections, electioneering communications, reporting requirements, and financial statements; modifying offenses and criminal penalties; modifying provisions relating to loans to candidates, organizations, or persons for election purposes; and modifying provisions relating to corporate contributions and use of certain contributions.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 623**—A Bill to amend and reenact §11A-1-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §11A-2-10a and §11A-2-13 of said code; to amend and reenact §11A-3-2 of said code; and to amend and reenact §59-3-1, §59-3-2, §59-3-3, and §59-3-9 of said code, all relating to the placement

of legal advertisements in qualified newspapers; providing for notices of taxes due by electronic means; providing for a program for notifications of taxes and delinquent taxes due; prohibiting additional fees; providing for effective dates; requiring a report from the Tax Commissioner to expand the electronic notification to other entities required to publish legal advertisements; providing for rulemaking; providing for emergency rulemaking; making technical corrections; allowing qualified newspapers to publish legal notices on their online edition; requiring all newspapers to have an online edition by July 1, 2021; modifying rates for legal publications to allow for publication online; requiring newspapers report specified data to the Secretary of State; and defining terms.

Referred to the Committee on Finance.

**By Senators Rucker, Plymale, Roberts, and Cline:**

**Senate Bill 624**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to administering the ACT or SAT tests to all 11th grade students.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senator Boso:**

**Senate Bill 625**—A Bill to amend and reenact §29-5A-3, §29-5A-3a, §29-5A-8, §29-5A-14, §29-5A-20, and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to the State Athletic Commission's direction, management, and control over all boxing and mixed martial arts events, contests, and matches in West Virginia; authorizing the commission to promulgate legislative rules regulating said boxing and mixed martial arts events; authorizing the commission to issue, suspend, or revoke the licenses required to promote, contend in, judge, referee, or otherwise participate in said boxing and mixed martial arts events; establishing the requirements for licensure as a promoter, contestant, manager, trainer, judge, matchmaker, or official; establishing restrictions and prohibitions against conflicts of interest; and establishing appropriate rules for regulating and sanctioning amateur boxing events.

Referred to the Committee on Government Organization.

**By Senators Jeffries, Lindsay, Plymale, and Beach:**

**Senate Bill 626**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-46, relating to directing county school boards to construct covered bus stops for public school children.

Referred to the Committee on Education.

**By Senator Sybolt:**

**Senate Bill 627**—A Bill to amend and reenact §19-1-11 of the Code of West Virginia, 1931, as amended, relating generally to the Rural Rehabilitation Loan Program; authorizing the Commissioner of Agriculture to utilize other governmental entities, in addition to the State Treasurer, to service the loan program; and exempting the loan program from having to utilize the State Agency for Surplus Property to dispose of repossessed items.

Referred to the Committee on Agriculture and Rural Development.

**By Senator Takubo:**

**Senate Bill 628**—A Bill to repeal §3-8-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-4a, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of said code; and to amend said code by adding thereto five new sections, designated §3-8-1b, §3-8-2d, §3-8-5c, §3-8-9a, and §3-8-9b, all relating generally to the regulation and control of financing elections; modifying findings and definitions; modifying provisions relating to receipts and expenditures in elections, electioneering communications, reporting requirements, and financial statements; modifying offenses and criminal penalties; modifying provisions relating to loans to candidates, organizations, or persons for election purposes; and modifying provisions relating to corporate contributions and use of certain contributions.

Referred to the Committee on the Judiciary.

**By Senators Sypolt and Cline:**

**Senate Bill 629**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §19-12E-10 and §19-12E-11, all relating to the state's ability to regulate hemp production by submitting a plan to the Secretary of Agriculture; providing for continued production of industrial hemp without an approved plan for state regulation; providing for negligent violations of the state plan; providing for requirements to correct negligent violations; and providing for revocation of an industrial hemp license for repeat negligent violations of a state plan.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Plymale and Hardesty:**

**Senate Bill 630**—A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to the allocation of premiums for employers and employees in the Public Employees Insurance Agency.

Referred to the Committee on Pensions; and then to the Committee on Finance.

**By Senators Weld, Boso, Stollings, Takubo, Hamilton, Ihlenfeld, Jeffries, Tarr, Cline, and Baldwin:**

**Senate Bill 631**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to certain diseases for which rebuttable presumption of injury arising out of and in the course of employment exists for firefighters, including bladder cancer, mesothelioma, and testicular cancer.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

**By Senators Maynard, Azinger, Blair, Boso, Cline, Roberts, Rucker, Smith, Sypolt, Tarr, Trump, and Jeffries:**

**Senate Bill 632**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated



§18-20-11, relating to requiring video cameras in certain public special education classrooms upon request.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senator Tarr:**

**Senate Bill 633**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-41-4, relating to authorizing the West Virginia Board of Physical Therapy to conduct criminal background checks on applicants seeking their initial license; providing the information may not be shared across state lines; and authorizing the board to obtain fingerprints from applicants for initial licenses.

Referred to the Committee on Government Organization.

**By Senator Azinger:**

**Senate Bill 634**—A Bill to amend and reenact §31A-8-12b of the Code of West Virginia, 1931, as amended, relating to adding “remote service unit” to the definition of customer bank communications terminals; defining “remote service unit”; and requiring that operators of remote service units maintain a physical location in this state.

Referred to the Committee on Banking and Insurance.

Senators Weld, Ihlenfeld, Jeffries, Stollings, Beach, Cline, Prezioso, Swope, and Baldwin offered the following resolution:

**Senate Concurrent Resolution 35**—Designating days for the display of the Honor and Remember Flag at the West Virginia Veterans Memorial at the West Virginia State Capitol.

Whereas, The Legislature previously approved HCR 94 in the 2011 Regular Session of the Legislature supporting the Honor and Remember Flag as an official emblem of the service and sacrifice by the brave men and women of the United States armed forces who have given their lives in the line of duty; and

Whereas, The Legislature also approved HCR 91 in the 2015 Regular Session of the Legislature designating days on which the Honor and Remember Flag may be displayed, which are: Armed Forces Day, the third Saturday in May; Memorial Day, the last Monday in May; Flag Day, June 14; Independence Day, July 4; National POW/MIA Recognition Day; and Veterans Day, November 11; and

Whereas, In order to fully recognize the ultimate sacrifice of those service members who the Honor and Remember Flag sets out to honor, the State of West Virginia should additionally adopt that in the case of display at the West Virginia Veterans Memorial at the West Virginia State Capitol, the Honor and Remember Flag should be displayed any day on which the flag of the United States is displayed; therefore, be it

*Resolved by the Legislature of West Virginia:*

That this Legislature designates days for the display of the Honor and Remember Flag at the West Virginia Veterans Memorial at the West Virginia State Capitol; and, be it

*Further Resolved,* That in the case of display at the West Virginia Veterans Memorial at the West Virginia State Capitol, the Honor and Remember Flag should be displayed any day on which the flag of the United States is displayed; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the General Services Division.

Which, under the rules, lies over one day.

Senators Clements, Palumbo, Hamilton, Ihlenfeld, Jeffries, Plymale, Unger, Stollings, Beach, Cline, Prezioso, Baldwin, and Hardesty offered the following resolution:

**Senate Resolution 46**—Designating February 15, 2019, as Corrections Day at the Legislature.

Whereas, The West Virginia Division of Corrections, the Regional Jail Authority, and the Division of Juvenile Services are committed to enhancing public safety by providing safe, secure, and humane facilities, operating an effective system of offender re-entry and community supervision, reducing offender recidivism, and assisting victims of crime; and

Whereas, The Division of Corrections and Rehabilitation is further committed to providing effective beneficial services that promote positive development and accountability while preserving community safety and sustaining a work environment predicated upon principles of professionalism, with dignity and respect for all; and

Whereas, It is the vision of these agencies to be recognized as innovative leaders in providing quality correctional services; and

Whereas, The adult and juvenile correctional population continues to expand and it is important for agency representatives and policymakers to appreciate the nature and magnitude of the growth; and

Whereas, Previous information provided to this body should assist public officials and agency representatives in planning for the future and developing policies for the management of the West Virginia correctional population, both adult and juvenile, as well as providing adequate pay, benefits, and a safe, secure workplace for the employees in the correctional system; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 15, 2019, as Corrections Day at the Legislature; and, be it

*Further Resolved,* That the Senate recognizes the exceptional service and commitment of the employees of the Division of Corrections, the Regional Jail Authority, and the Division of Juvenile Services; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Corrections, the Director of the Regional Jail Authority, and the Director of the Division of Juvenile Services.

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 Takubo, and by unanimous consent, the remarks by Senator Clements regarding the adoption of Senate Resolution 46 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:32 a.m., the Senate recessed to present Senate Resolution 46.

The Senate reconvened at 11:36 a.m. and resumed business under the sixth order.

Senators Plymale, Palumbo, Hardesty, Woelfel, Facemire, Jeffries, Unger, Stollings, Beach, and Baldwin offered the following resolution:

**Senate Resolution 47**—Congratulating the Spring Valley High School volleyball team for winning the 2018 Class AAA State Volleyball Championship.

Whereas, The Spring Valley High School volleyball team had a dominant year on the court, finishing with a record of 61-1-3, on their way to winning the 2018 Class AAA State Volleyball Championship; and

Whereas, The Spring Valley High School volleyball team is led by head coach Cadara Shreeve, and assistant coach Hannah Bailey; and

Whereas, The Spring Valley High School volleyball team roster consists of players: Mackinley Smith, Madison Lemon, Alex Darby, Grace Sullivan, Meagan Camden, Ally Wellman, Caroline

Asbury, Grace Allen, Caitlin Null, Kennedy Stanley, and Alexa Ball; and

Whereas, The 2018 Spring Valley High School volleyball team had a historic season, winning five regular season tournaments, the MSAC Championship, the Sectional Championship, and the State Championship; and

Whereas, The 2018 Spring Valley High School volleyball team displayed its talent and strong will for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2018 Spring Valley High School volleyball team will be remembered as one of the best girls' volleyball teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate congratulates the Spring Valley High School volleyball team for winning the 2018 Class AAA State Volleyball Championship; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Spring Valley High School volleyball team.

At the request of Senator Plymale, 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 Takubo, and by unanimous consent, the remarks by Senators Plymale, Woelfel, and Maynard regarding the adoption of Senate Resolution 47 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:42 a.m., the Senate recessed to present Senate Resolution 47.

The Senate reconvened at 11:45 a.m. and, at the request of Senator Beach, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

### **Petitions**

Senator Cline presented a petition from the Rural Appalachian Improvement League, requesting the Legislature to reinstate funding for local health departments.

Referred to the Committee on Finance.

At the request of Senator Takubo, and by unanimous consent, the Senate returned to the fourth order of business.

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

**Senate Bill 635** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated §22A-2-80; to amend and reenact §22A-2A-405 of said code; to amend and reenact §22A-8-5 of said code; and to amend said code by adding thereto a new article, designated §22A-13-1, §22A-13-2, §22A-13-3, §22A-13-4, §22A-13-5, and §22A-13-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community

Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety, and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; amending standards for controlling and monitoring exhaust gases for diesel-powered underground coal mining equipment; allowing certified competent miners to supervise up to two apprentice miners; and establishing the Mine Trespass Act.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Randy E. Smith,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 636** (originating in the Committee on Education)—A Bill to amend and reenact §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing legislative rules regarding higher education; authorizing legislative rules for the Higher Education Policy Commission regarding Acceptance of Advanced Placement Credit, Human Resources Administration, Guidelines for Governing Boards in Employing and Evaluating Presidents, and PROMISE Scholarship Program; and authorizing legislative rules for the Council for Community and Technical College Education regarding Tuition and Fees, Acceptance of Advanced Placement Credit, Initial Authorization of Degree-Granting Institutions, Workforce Development: Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response Grants, and Human Resource Administration.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The Senate proceeded to the seventh order of business.



**Senate Concurrent Resolution 34**, US Army SPC Julian Lee Berisford 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 Senate Bill 60**, Licensing practice of athletic training.

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 60 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 60) 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 66**, Prohibiting certain misleading lawsuit advertising practices.

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: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Lindsay, and Palumbo—3.

Absent: Boso 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 S. B. 66) 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 393**, Protecting right to farm.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 393) 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 516**, Relating to attorney fees in subsidized adoptions.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 516) 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 518**, Restricting sale and trade of dextromethorphan.

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 518 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 518) 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 563**, Prohibiting sexual assault victim be subjected to certain physical examinations.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 563) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso 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 S. B. 563) 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 590**, Permitting guided bear hunts by licensed outfitters and guides.

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: Azinger, Blair, Boley, Clements, Cline, Hardesty, Jeffries, Mann, Maynard, Palumbo, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hamilton, Ihlenfeld, Lindsay, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—13.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 590) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Hardesty, Jeffries, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Facemire, Hamilton, Ihlenfeld, Lindsay, Romano, Unger, and Woelfel—8.

Absent: Boso 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. 590) 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 2521**, Relating to permitting fur-bearer parts.

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: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Plymale, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Hardesty, Palumbo, Prezioso, Stollings, Unger, and Woelfel—7.

Absent: Beach, Boso, and Maroney—3.

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. 2521) 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.

**Com. Sub. for Senate Bill 259,** Expanding Coyote Control Program.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill 266,** Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 295,** Relating to crimes against public justice.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 489,** Relating to Pharmacy Audit Integrity Act.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 502,** Exempting sales of investment metal bullion and coins.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 545,** Relating to HIV testing.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 550**, Declaring certain claims to be moral obligations of state.

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 2481**, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

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 3A. SALES BY RETAIL LIQUOR LICENSEES.**

#### **§60-3A-18. Days and hours retail licensees may sell liquor.**

Retail licensees may not sell liquor on ~~Sundays and~~ Easter Sunday, Christmas day, or before 1 p.m. on other Sundays, except a Sunday on which Christmas falls, or between the hours of 12:00 a.m. and 8:00 a.m., except that wine and fortified wines may be sold on those days and at such times as authorized in §60-8-34 of this code.

#### **§60-3A-25. Certain acts of retail licensees prohibited; criminal penalties.**

(a) It is unlawful for any retail licensee, or agent or employee thereof, on such retail licensee's premises to:

(1) Sell or offer for sale any liquor other than from the original package or container;



(2) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person under 21 years of age;

(3) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person visibly intoxicated;

(4) Sell or offer for sale any liquor ~~on any Sunday or~~ other than during the hours permitted for the sale of liquor by retail licensees as provided under this article;

(5) Permit the consumption by any person of any liquor;

(6) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any liquor;

(7) Permit any person under 18 years of age to sell, furnish, or give liquor to any other person;

(8) Purchase or otherwise obtain liquor in any manner or from any source other than that specifically authorized in this article; or

(9) Permit any person to break the seal on any package or bottle of liquor.

(b) Any person who violates any provision of this article, except section 24 of this article, including, but not limited to, any provision of this section, or any rule promulgated by the board or the commissioner, or who makes any false statement concerning any material fact, or who omits any material fact with intent to deceive, in submitting an application for a retail license or for a renewal of a retail license or in any hearing concerning the suspension or revocation thereof, or who commits any of the acts declared in this article to be unlawful, is guilty of a misdemeanor and, shall, upon conviction thereof, for each offense be fined not less than \$100 or more than \$5,000, or imprisoned in the county jail for not less than 30 days nor more than one year, or both fined and imprisoned. Magistrates have concurrent jurisdiction with the circuit courts for offenses under this article.

(c) Nothing in this article, or any rule of the board or commissioner, prevents or prohibits any retail licensee from employing any person who is at least 18 years of age to serve in any retail licensee's lawful employment at any retail outlet operated by such retail licensee, or from having such person sell or deliver liquor under the provisions of this article. With the prior approval of the commissioner, a retail licensee may employ persons at any retail outlet operated by such retail licensee who are less than 18 years of age but at least 16 years of age, but such persons' duties shall not include the sale or delivery of liquor: *Provided*, That the authorization to employ such persons under the age of 18 years shall be clearly indicated on the retail license issued to any such retail licensee.

The bill (Eng. Com. Sub. for H. B. 2481), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 29**, Creating ten-year tax credits for businesses locating on post-coal mine sites.

**Com. Sub. for Senate Bill 117**, Relating to incentives for consolidating local governments.

**Com. Sub. for Senate Bill 147**, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

**Senate Bill 333**, Exempting automobiles 25 years or older from personal property taxes.

**Com. Sub. for Senate Bill 512**, Regulating pawnbrokers.

**Senate Bill 617**, Relating to method of payment to Municipal Pensions Security Fund.

And,

**Senate Bill 618**, Relating to effect on levy rate when appraisal results in tax increase.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Clements.

Thereafter, at the request of Senator Sypolt, and by unanimous consent, the remarks by Senator Clements were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Woelfel, the name of Senator Woelfel was removed as a sponsor of Senate Bill 571 (*Establishing method for courts to order financial exploitation protection orders*).

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 12:34 p.m., the Senate adjourned until Monday, February 18, 2019, at 11 a.m.

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## MONDAY, FEBRUARY 18, 2019

The Senate met at 11:13 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Caleb Villers, Youth Pastor, Summersville Baptist Church, Summersville, 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 Friday, February 15, 2019,

At the request of Senator Roberts, 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.

On motion of Senator Takubo, at 11:24 a.m., the Senate recessed to permit Bairavi Sundaram to address the Senate on behalf of the Governor's Honors Academy and Connor Rush to address the Senate on behalf of the Governor's School for the Arts.

The Senate reconvened at 11:32 a.m. and 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. House Bill 2472**—A Bill to amend and reenact § 17A-3-14 of the Code of West Virginia, 1931, as amended, relating to providing a special license plate for pollinators; and establishing a fee.

Referred to the Committee on Transportation and Infrastructure.

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. Com. Sub. for House Bill 2538**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-1-14, relating to providing banking services for medical cannabis; providing findings; defining terms; authorizing Treasurer to competitively bid for financial institutions to provide banking services; providing for disposition of penalties collected pursuant to the West Virginia Medical Cannabis Act; authorizing the Treasurer to hold funds outside treasury until

permitted to transfer money to state main disbursement account; authorizing Treasurer to charge fees for providing services; creating the Treasurer's Medical Cannabis Fund; requiring the Enterprise Resource Planning Board to configure wvOASIS to allow deposits in, investing moneys in, and making payments from the accounts established by the Treasurer at a selected financial institution; establishing that action under section not unlawful; providing that the Commissioner of Financial Institutions shall not prohibit, penalize incentivize or otherwise impair a financial institution from providing services under the Act in certain instances; providing that no cause of action exists against the Treasurer and state officers and employees involved in cannabis-related banking or financial services in their personal capacities in certain circumstances; and providing that the state will defend and indemnify the Treasurer and any state officers and employees involved in cannabis-related banking services provided within the scope of their duties or employment in accordance with the West Virginia Medical Cannabis 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. Com. Sub. for House Bill 2579**—A Bill to amend and reenact §11-10-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-18a of said code, all relating to the collection of tax and the priority of distribution of an estate or property in receivership and the liability of the fiduciary.

Referred to the Committee on the Judiciary; and then 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 2618**—A Bill to amend and reenact §55-7J-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-2-29b of said code, all relating to including the use of undue influence resulting in financial or asset

loss or disadvantage to an elderly person, protected person or incapacitated adult in the definitions of civil and criminal financial exploitation of elderly persons, protected persons and incapacitated adults; defining terms; and revising criminal penalties.

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 2716**—A Bill to amend and reenact §20-7-13 of the Code of West Virginia, 1931, as amended, relating to vessel lighting and equipment requirements.

Referred to the Committee on Natural 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 2846**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to special vehicle registration plates; designating a “Back the Blue” plate in support of law-enforcement personnel; and establishing fees for application and issuance of the plate.

Referred to the Committee on Transportation and Infrastructure.

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 2992**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-7; to amend and reenact §7-1-3rr of said code; and to amend said code by adding thereto a new article, designated §8-39-1, all relating to governmental websites; requiring executive branch agencies maintain a website that contains specific information; requiring county commissions to maintain websites

with specific information; requiring county commissions to provide certain information to the Secretary of State; requiring municipalities to maintain websites with specific information available to the public at no charge; requiring information to be updated; and requiring updated information be provided to the Office of Technology.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

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 2**—Requesting the Division of Highways to name bridge number [54-68-17.10] (54A205), locally known as Juliana Street Bridge, carrying WV 68 over the Little Kanawha River and US Route 50 in Wood County, the “Senator J. Frank Deem 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 4**—Requesting the Division of Highways name that portion of West Virginia Route 3 beginning at its intersection with Keenan Road and ending at Gap Mills in Monroe County, the “Gold Star Families 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

**Com. Sub. for House Concurrent Resolution 7**—Requesting the Division of Highways name bridge number 20-83-8.49

(20A266), locally known as Standard Bridge, carrying County Route 83 Spur over Paint Creek in Kanawha County, the “Kidd Brothers 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 11**—Requesting the Division of Highways name bridge number: 46-50-16.56 (46A040) (39.34488, -79.94344), locally known as Thornton bridge, carrying U. S. Route 50 over Three Fork Creek & CSX Railroad in Taylor County, the “U. S. Army Command Sergeant Major Timothy Allen Bolyard 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 19**—Requesting the Division of Highways name bridge number 17-24-7.22 (17A148), locally known as the Meadowbrook Bridge, carrying County Route 24 over the 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

**House Concurrent Resolution 23**—Requesting the Division of Highways name bridge number 08-19-0.04 (08A052), locally known as Moore Fork Bridge, carrying County Route 19 over Big



Otter Creek in Clay County, the “U. S. Army SGT Rodney David King and U. S. Army SGT James Harris King 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 26**—Requesting the Division of Highways name bridge number 18-2-2.72 (18A004), locally known as Millwood Bridge, carrying West Virginia Route 2 over Mill Creek in Jackson County, the “U. S. Army SGT Arthur “George” Roush 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 43**—Requesting the Division of Highways name bridge number 13-60-34.93 (13A114), locally known as Caldwell Bridge, carrying U. S. Route 60 over the Greenbrier River in Greenbrier County, the “U. S. Army Air Corps T SGT Ralph H. Ray 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 44**—Requesting the Division of Highways name bridge number 03-85/24-0.01 (03A167), 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.

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 14th day of February, 2019, 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. 2307)**, Relating to creating a provisional license for practicing barbering and cosmetology.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

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 15th day of February, 2019, 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. 240)**, Repealing certain legislative rules no longer authorized or are obsolete.

**(S. B. 267)**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

**(S. B. 324)**, Relating to Commissioner of Agriculture employees.

And,

(**S. B. 354**), Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*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

**Com. Sub. for Senate Bill 340**, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

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

**Com. Sub. for Senate Bill 402** (originating in the Committee on Natural Resources), Authorizing Division of Forestry investigate and enforce timber theft violations.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 402** (originating in the Committee on the Judiciary)—A Bill to amend and reenact

§19-1A-3b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3-52 of said code, all relating to authorizing the Division of Forestry to investigate and enforce timber theft violations on all lands; clarifying the criminal penalties for violations; and modifying said criminal penalties.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 510** (originating in the Committee on Finance), Relating to medical professional liability.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 510** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; providing for requirements for notice of claim; setting out requirements for an expert who signs a certificate of merit; and providing for information to be included with the certificate of merit.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Clements, 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 Bill 522**, Creating Special Road Repair Fund.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 522** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §11-13A-3, §11-13A-3a, and §11-13A-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, and §17-30-4, all relating to enhancing maintenance and repair of the state's roads and highways; creating the Special Road Repair Fund as a sub-account of the State Road Fund; providing two percent of severance taxes on coal, limestone, or sandstone production, natural gas or oil production, and any other natural resource product be transferred to the Special Road Repair Fund; directing Secretary of Revenue to make a one-time transfer of \$200 million from the Revenue Shortfall Reserve Fund into the Special Road Repair Fund; striking obsolete language; creating the Enhanced Road Maintenance Program; stating legislative finding and purpose of program; setting forth requirements concerning bidding, vendors, and contracts with vendors; specifying uses of Special Road Repair Fund; requiring districts develop maintenance plans; defining term; providing requirements for Commissioner of Highways and districts; and requiring reporting by Division of Highways and Legislative Auditor.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The bill (Com. Sub. for S. B. 522), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2083**, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senator Blair:**

**Senate Bill 637**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to revocation, cancellation, or suspension of business registration certificates; providing procedures therefor; and specifying effective date.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 638**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-

42-1, §30-42-2, §30-42-3, §30-42-4, §30-42-5, §30-42-6, §30-42-7, §30-42-8, §30-42-9, §30-42-10, §30-42-11, §30-42-12, §30-42-13, §30-42-14, and §30-42-15, all relating to the creation of the Court Reporter Act of 2019; and providing for the administration and certification of court reporters, including application, fees, criteria for approval or denial of certification, resolution of complaints concerning certified reporters, and the discipline and administrative hearing process.

Referred to the Committee on the Judiciary.

**By Senator Sypolt:**

**Senate Bill 639**—A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-1A-6, all relating to salaries for members of the Division of Forestry.

Referred to the Committee on Finance.

**By Senators Stollings and Maroney:**

**Senate Bill 640**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, and §16-56-4, all relating to the regulation of sudden cardiac arrest prevention; training and education; rulemaking; and removal from athletic activity.

Referred to the Committee on Health and Human Resources.

**By Senators Maroney and Takubo:**

**Senate Bill 641**—A Bill to repeal §16-2H-3 and §16-2H-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2H-2 of said code, relating to the Primary Care Support Program; eliminating loan fund; and creating grant fund.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Maroney, Azinger, Rucker, Takubo, Trump, and Roberts:**

**Senate Bill 642**—A Bill to amend and reenact §16-30-3 and §16-30-4 of the Code of West Virginia, 1931, as amended, all relating to

providing options in living wills, and combined medical powers of attorney and living wills, that permit the principal to either be provided with medically assisted food and fluids or not to be provided with medically assisted food and fluids if the principal is unable to communicate his or her desires; redefining a term; and clarifying what constitutes a “terminal condition” and a “persistent vegetative state”.

Referred to the Committee on the Judiciary.

**By Senators Romano, Baldwin, Beach, Hardesty, Jeffries, Lindsay, and Woelfel:**

**Senate Bill 643**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-9-1, §12-9-2, and §12-9-3, all relating to creating the Company-Specific Subsidy Interstate Compact.

Referred to the Committee on Interstate Cooperation; and then to the Committee on the Judiciary.

**By Senator Maynard (By Request):**

**Senate Bill 644**—A Bill to amend and reenact §29-5A-3, §29-5A-3a, §29-5A-8, §29-5A-14, §29-5A-20, and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to the State Athletic Commission’s direction, management, and control over all boxing and mixed martial arts events, contests, and matches in West Virginia; authorizing the commission to promulgate legislative rules regulating said boxing and mixed martial arts events; authorizing the commission to issue, suspend, or revoke licenses required to promote, contend in, judge, referee, or otherwise participate in said boxing and mixed martial arts events; establishing requirements for licensure as a promoter, contestant, manager, trainer, judge, matchmaker, or official; providing restrictions and prohibitions against conflicts of interest; and authorizing rulemaking for regulating and sanctioning amateur boxing events.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill 645**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-



15D-1, §33-15D-2, §33-15D-3, §33-15D-4, §33-15D-5, and §33-15D-6, all relating to creating the Health Care Choice Act; stating legislative findings and purpose; and authorizing insurers from other states to engage in the business of health insurance in West Virginia only with the written approval of the Insurance Commissioner and subject to qualifications and other requirements determined by the Insurance Commissioner.

Referred to the Committee on Banking and Insurance.

**By Senators Clements and Maroney:**

**Senate Bill 646**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17C-6A-1, §17C-6A-2, §17C-6A-3, §17C-6A-4, §17C-6A-5, and §17C-6A-6, all relating to providing for automated license plate reader systems; providing for required training; providing for use of captured data; and imposing a misdemeanor penalty for violations.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Baldwin:**

**Senate Bill 647**—A Bill to amend and reenact §17A-16-4 and §17C-16-6 of the Code of West Virginia, 1931, as amended, relating to motor vehicle inspections.

Referred to the Committee on Finance.

**By Senator Smith:**

**Senate Bill 648**—A Bill to repeal §22A-6-5, §22A-6-8, §22A-6-9, §22A-6-10, §22A-6-11, §22A-6-12, §22A-6-13, and §22A-6-14 of the Code of West Virginia, 1931, as amended; to repeal §22A-7-5a of said code; to repeal §22A-11-4 of said code; to amend and reenact §11-13BB-4 of said code; to amend and reenact §22A-5-2 of said code; to amend and reenact §22A-6-1, §22A-6-3, §22A-6-4, §22A-6-6, and §22A-6-7 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-4, §22A-7-5, §22A-7-6, and §22A-7-7 of said code; to amend and reenact §22A-8-3, §22A-8-4, §22A-8-5, and §22A-8-6 of said code; to amend and reenact §22A-

9-1 of said code; and to amend and reenact §22A-11-1, §22A-11-2, and §22A-11-3 of said code, all relating to reorganizing the Office of Miners' Health, Safety, and Training and several related boards and offices; terminating the Board of Coal Mine Health and Safety and transferring its powers and duties to the Director of the Office of Miners' Health, Safety, and Training; terminating the office of the Health Safety Administrator; terminating the Board of Miner Training, Education, and Certification and transferring its powers and duties to Director of the Office of Miners' Health, Safety, and Training; transferring the authority for hearing appeals of suspensions of mine inspectors to the Board of Appeals; transferring the authority and duty to identify innovative mine safety technologies eligible for tax credits to the Director of the Office of Miners' Health, Safety, and Training; repealing archaic sections and sections incompatible with the transfers in this act; and making stylistic changes and grammar corrections throughout.

Referred to the Committee on Energy, Industry, and Mining.

**By Senator Trump:**

**Senate Bill 649**—A Bill to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended, relating to sales tax on motor vehicles; and exempting the sales tax on a motor vehicle titled in the name of a resident of this state if the person was not a resident of this state at the time the person acquired ownership of the vehicle and the person paid sales tax on the vehicle in another state but did not title it in the other state.

Referred to the Committee on Finance.

**By Senators Tarr and Maroney:**

**Senate Bill 650**—A Bill to amend and reenact §46A-6J-2 and §46A-6J-3 of the Code of West Virginia, 1931, as amended, all relating to the protection of consumers from price gouging and unfair pricing practices during and shortly after a state of emergency; amending definition of "state of emergency"; and modifying the time period for which prices for certain goods may not be changed following a state of emergency.

Referred to the Committee on the Judiciary.

**By Senator Maynard (By Request):**

**Senate Bill 651**—A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-4 of said code, all relating to the ability of the Director of the Division of Natural Resources to enter into repair, renovation, rehabilitation, and related contracts for existing facilities, buildings, amenities, and infrastructure; and adding state forests to the definition of “recreational facilities”.

Referred to the Committee on Natural Resources.

**By Senators Baldwin and Lindsay:**

**Senate Bill 652**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, and §46A-6N-3, all relating to prohibiting certain misleading pharmaceutical advertising practices; providing for certain disclosures and warnings in pharmaceutical advertising for the protection of patients; and imposing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Stollings and Maroney:**

**Senate Bill 653**—A Bill to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended, relating generally to the practice of medical corporations; eliminating references to podiatry corporations; replacing references to the practice of podiatry with podiatric medicine; providing that authorized medical corporations may only practice medicine and surgery through individual physicians, podiatric physicians, or physician assistants licensed to practice medicine; permitting podiatric physicians and physician assistants to be employees rather than shareholders of a medical corporation; and providing that licensed hospitals do not need to obtain a certificate of authorization from the Board of Medicine so long as the hospital does not exercise control of the independent medical judgment of licensed physicians and licensed podiatric physicians.

Referred to the Committee on Health and Human Resources.

**By Senator Azinger:**

**Senate Bill 654**—A Bill to amend and reenact §31-17A-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of “mortgage loan originator”; and clarifying the definition.

Referred to the Committee on Banking and Insurance.

**By Senator Trump:**

**Senate Bill 655**—A Bill to amend and reenact §19-21A-3 and §19-21A-4 of the Code of West Virginia, 1931, as amended, all relating to conservation districts generally; clarifying the authority of the State Conservation Committee to operate and administer a conservation grant program; providing financial assistance to conservation districts and others to promote approved conservation practices; and defining terms.

Referred to the Committee on Government Organization.

**By Senators Blair and Trump:**

**Senate Bill 656**—A Bill to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-13V-7 of said code, all relating to electronic filing of tax returns and electronic funds transfers in payment of taxes; and raising to \$50,000 the tax liability threshold amount at which taxpayers must file returns electronically or pay by electronic funds transfers.

Referred to the Committee on Finance.

**By Senator Sybolt:**

**Senate Bill 657**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1 and §19-37-2, all relating to providing protection to consumers if self-propelled farm equipment fails to conform to warranties; and requiring manufacturers and dealers to refund, replace, and repair the equipment.

Referred to the Committee on the Judiciary.

**By Senator Romano:**

**Senate Bill 658**—A Bill to amend and reenact §17A-6E-4 of the Code of West Virginia, 1931, as amended, relating to motor vehicle salesperson licenses; and modifying the felony disqualification.

Referred to the Committee on Government Organization.

**By Senators Jeffries, Palumbo, Plymale, Rucker, Weld, Woelfel, Lindsay, Stollings, and Maroney:**

**Senate Bill 659**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10P-1, §18-10P-2, §18-10P-3, and §18-10P-4; and to amend and reenact §21-5C-1 of said code, all relating to wages of persons with disabilities; initiating a State Employment First Policy to facilitate integrated employment of disabled persons; providing legislative findings; establishing a taskforce to develop a State Employment First Policy; providing for implementation of the State Employment First Policy; and removing the exemption from paying minimum wages to disabled persons working in nonprofit workshops.

Referred to the Committee on the Judiciary.

**By Senator Boso:**

**Senate Bill 660**—A Bill to amend and reenact §8A-11-1 of the Code of West Virginia, 1931, as amended, relating to standards for factory-built homes; and requiring cities and counties when enacting any ordinance or regulation for the purposes of regulating the subdivision, development, and use of land, to uniformly apply design standards and associated review and permitting procedures for factory-built and other single-family constructed homes.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill 661**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-56-1, relating to requiring health care providers to make available to patients an estimate of the provider's standard charges

for items and services provided by the provider; and requiring under certain circumstances an explanation of options available and a cost comparison.

Referred to the Committee on Health and Human Resources.

**By Senator Maynard:**

**Senate Bill 662**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7L-1, §55-7L-2, and §55-7L-3, all relating to permitting civil actions by a social media website user for censorship or suppression of social media user’s speech; providing definitions; stating defenses to civil action; and authorizing the Attorney General to bring action on behalf of a social media user.

Referred to the Committee on the Judiciary.

**By Senator Romano:**

**Senate Bill 663**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to providing that if there is a minor or technical error that prevents the lowest bidder from being the lowest qualified bidder on a government construction contract, that bidder has 48 hours to correct that error before a final determination is made on who will be awarded the contract in question.

Referred to the Committee on Government Organization.

Senators Maroney and Jeffries offered the following resolution:

**Senate Concurrent Resolution 36**—Requesting the Division of Highways name bridge number 26-250-38.73 (26A073), locally known as Boggs Run Bridge, carrying US 250 over Marshall Street in Marshall County, the “U. S. Army CPL Cory M. Hewitt Memorial Bridge”.

Whereas, Cory Michael Hewitt was born May 22, 1978, in a hospital in Wheeling, West Virginia, although the family resided in Sandy Hill, Marshall County, West Virginia; and

Whereas, Cory Michael Hewitt played football and the trombone in the band, and was known to slip out of his shoulder pads at halftime, grab his trombone, and join the band for the halftime show, and then slip back into his football uniform to play in the second half; and

Whereas, Cory Michael Hewitt graduated from West Liberty State College in 2001, where he is remembered by his professors as a model student; and

Whereas, Less than 20/20 vision kept him from his dream job as of a member of the Secret Service or the FBI, so he followed in the footsteps of his father to become a member of the U. S. Army; and

Whereas, CPL Cory Michael Hewitt was assigned to the 705th Ordinance Company (Explosive Ordinance Disposal), 63rd Ordinance Battalion, 52nd Ordinance Group, 20th Support Command (CBRNE) in Iraq; and

Whereas, CPL Cory Michael Hewitt was killed on December 21, 2004, by a suicide bomber in the forward Operating Base Marez, Mosul, Iraq; and

Whereas, CPL Cory Michael Hewitt was awarded the Bronze Star Medal and the Purple Heart Medal; and

Whereas, It is fitting that enduring memorial be established to commemorate CPL Cory M. Hewitt and his sacrifice for 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 26-250-38.73 (26A073), locally known as Boggs Run Bridge, carrying US 250 over Marshall Street in Marshall County, the “U. S. Army CPL Cory M. Hewitt Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Cory M. Hewitt 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 Takubo, Stollings, Jeffries, and Prezioso offered the following resolution:

**Senate Concurrent Resolution 37**—Urging the Commissioner of the Bureau for Public Health to designate Alzheimer’s disease and other dementias as a public health issue.

Whereas, It is the intent of the Legislature to increase awareness of Alzheimer’s disease and other dementias, address cognitive impairment, promote brain health, and meet the needs of caregivers; and

Whereas, Alzheimer’s disease has been traditionally seen as an aging issue but it is also a public health issue because the burden to society is large, the impact is major, and there are ways to intervene throughout the lifespan; and

Whereas, The onset of Alzheimer’s disease cannot yet be stopped or reversed; and

Whereas, Early detection and diagnosis give people with dementia and their families a better chance of receiving and benefitting from treatment, care and support services, and allow them to better prepare for medical, legal, and financial decisions in the future; and

Whereas, Alzheimer’s disease is the sixth leading cause of death in adults age 18 or older in the United States; and

Whereas, Currently, there are no definitive interventions or successful treatments to prevent or cure Alzheimer’s disease; and

Whereas, The Centers for Disease Control and Prevention (CDC) has declared that it is essential to promote early detection, educate the public about risk reduction, and continue accurately



tracking the diagnosis of Alzheimer's disease and other dementias; and

Whereas, In conjunction with the CDC, the Bureau for Public Health annually conducts the Behavioral Risk Factor Surveillance System (BRFSS) survey to gather statewide public health data; and

Whereas, In the 2015 BRFSS survey, 10 percent, or one in 10, of West Virginia residents aged 45 and older reported an increase in confusion or worsening memory loss, and more than half of them (52.4 percent) had not discussed these cognitive concerns with a health care provider; and

Whereas, Dementia caregivers often suffer from stress, depression, increased illnesses, and chronic health issues providing care to their loved ones for long periods of time, saving tax payers billions of dollars in the process; and

Whereas, The Legislature recognizes the important responsibility the Bureau for Public Health has in promoting and encouraging healthy behaviors among the general public, increasing early detection and diagnosis of disease and disability, reducing risk of future illness and injury, educating the health care workforce, and monitoring the health of the state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the Commissioner of the Bureau for Public Health to designate Alzheimer's disease and other dementias as a public health issue; 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 Bureau for Public Health.

Which, under the rules, lies over one day.

Senators Plymale, Baldwin, Cline, Maynard, Woelfel, Jeffries, Lindsay, Stollings, and Roberts offered the following resolution:

**Senate Concurrent Resolution 38**—Urging CSX and other potential partners to support the New River Train.

Whereas, The New River Train has operated profitably for 53 years, running between Huntington and Hinton during two October weekends; and

Whereas, On average, 4,800 people ride the train during the two-day weekend; and

Whereas, The Cabell-Huntington Convention and Visitors Bureau estimates the New River Train's economic impact to be \$2.2 million in Huntington alone and \$5 million for the area; and

Whereas, Travel spending by all overnight and day visitors in West Virginia was \$4.3 billion in the 2017 calendar year; and

Whereas, Travel spending in Cabell County (where the New River Train originates) was \$115.2 million in 2017, generating \$33.4 million earnings and 1,140 jobs for West Virginia workers, and travel spending in Summers County (where the New River Train lays over) was \$17.4 million, generating \$4.6 million in earnings and 230 jobs for West Virginia workers; and

Whereas, Collis P. Huntington Railroad Historical Society, Inc., has worked in cooperation with CSX and Amtrak to operate the New River Train; and

Whereas, Amtrak has announced they are eliminating charter/special trains such as the New River Train; and

Whereas, Amtrak removed Huntington as a point of access for private railcars; and

Whereas, The New River Train, without this support, finds itself evaluating its options and model of operations; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature urges CSX and other potential partners to support the New River Train; and, be it

*Further Resolved*, That the Legislature recognizes the importance and value of the New River Train, and the Collis P. Huntington Railroad Historical Society, Inc. as its operator; and, be it

*Further Resolved*, That the Legislature appreciates the value that this train and others like it adds to our state's economy, history, and legacy; and, be it

*Further Resolved*, That the Legislature commits to exploring ways to support this industry in both the short and long terms; and, be it

*Further Resolved*, That the Legislature recognizes the role that private-public partnerships can play in forwarding common goals of both sectors; and, be it

*Further Resolved*, That the Legislature asks CSX and other potential partners to consider supporting the Collis P. Huntington Railroad Historical Society in any way that they can, whether as a sponsor or partner, and enabling the society to continue running the New River Train; and, be it

*Further Resolved*, That the Legislature asks CSX and other potential partners to join with us in securing a future for the special and historical train industry, and to allow our great state to continue benefitting from the tourism and economic opportunities that special trains provide; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Richard H. Anderson, President and Chief Executive Officer of Amtrak, James M. Foote, President and Chief Executive Officer of CSX, the Collis P. Huntington Railroad Historical Society, Inc., and to the members of West Virginia's congressional delegation.

Which, under the rules, lies over one day.

Senators Smith, Jeffries, Lindsay, Stollings, Swope, and Maroney offered the following resolution:

**Senate Resolution 48**—Designating February 18, 2019, as Pancreatic Cancer Awareness Day at the Capitol.

Whereas, In 2019, an estimated 56,770 people will be diagnosed with pancreatic cancer in the United States, and 45,750 will die from the disease; and

Whereas, Pancreatic cancer is one of the deadliest cancers, is currently the third leading cause of cancer death in the United States, and it is projected to become the second leading cause around 2020; and

Whereas, Pancreatic cancer is one of the deadliest cancers with a five-year relative survival rate in the single digits, at just nine percent; and

Whereas, When symptoms of pancreatic cancer present themselves, it is generally in later stages, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis, while 91 percent of pancreatic cancer patients die within the first five years; and

Whereas, Approximately 300 deaths will occur in West Virginia in 2019; and

Whereas, This is the same disease which claimed the life of: Former West Virginia Governor, William Marland; actor, Patrick Swayze; Super Bowl MVP, Harvey Martin; and the Queen of Soul, Aretha Franklin; and

Whereas, One of the less than 20 percent of patients diagnosed with pancreatic cancer who was able to have the Whipple surgery is our own John Homburg, who is currently a bill drafter for the West Virginia Legislature, and retired as the Director of Legislative Services in 2014; and

Whereas, Pancreatic cancer is the seventh most common cause of cancer-related death across the world; and

Whereas, While overall cancer incidences and cancer death rates are declining, the incidence of pancreatic cancer and death

rate for pancreatic cancer patients has been increasing. The number of new pancreatic cancer incidences has been increasing and is projected to increase by 55 percent between now and 2030; and

Whereas, The good health and well-being of the residents of West Virginia are enhanced as a direct result of increased awareness about the symptoms and risk factors of pancreatic cancer, and research into early detection, causes, and effective treatments; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 18, 2019, as Pancreatic Cancer Awareness Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Pancreatic Cancer Awareness Day.

At the request of Senator Smith, 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 Takubo, and by unanimous consent, the remarks by Senator Smith regarding the adoption of Senate Resolution 48 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:41 a.m., the Senate recessed to present Senate Resolution 48.

The Senate reconvened at 11:44 a.m. and resumed business under the sixth order.

Senators Rucker, Jeffries, Lindsay, Stollings, and Swope offered the following resolution:

**Senate Resolution 49**—Designating February 18, 2019, as Advanced Technology Center Day at the Legislature.

Whereas, The State of West Virginia is committed to supporting community and technical college education for all of its citizens; and

Whereas, Two schools within the West Virginia Council for Community and Technical College Education—Bridge Valley Community and Technical College and Pierpont Community and Technical College, house the state's only two Advanced Technology Centers; and

Whereas, A community and technical college education is the foundation of a highly skilled workforce that contributes to the economic mobility of the state and supports the growth and expansion of businesses from large-scale employers to local entrepreneurs; and

Whereas, Through these Advanced Technology Centers, Bridge Valley Community and Technical College and Pierpont Community and Technical College partner with business and industry to provide associate degrees, certificates, and skill sets for the high-skill, high-wage technical careers in West Virginia; and

Whereas, These Advanced Technology Centers provide customized training, cutting-edge technology, small business development, and comprehensive career and technical education opportunities; and

Whereas, Through the services of outstanding faculty, staff, administration, and leadership, Bridge Valley Community and Technical College and Pierpont Community and Technical College are committed to creating an ecosystem that meets the needs of both students and industry; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 18, 2019, as Advanced Technology Center Day at the Legislature; and be it

*Further Resolved,* That the Senate recognizes the commitment to excellence of Bridge Valley Community and Technical College and Pierpont Community and Technical College; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to each of the presidents of Bridge Valley Community and Technical College and Pierpont Community and Technical College.

At the request of Senator Rucker, 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 Takubo, and by unanimous consent, the remarks by Senator Rucker regarding the adoption of Senate Resolution 49 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:47 a.m., the Senate recessed to present Senate Resolution 49.

The Senate reconvened at 11:50 a.m. and resumed business under the sixth order.

Senators Prezioso, Jeffries, Lindsay, Stollings, Swope, and Maroney offered the following resolution:

**Senate Resolution 50**—Congratulating the Fairmont Senior High School football team for winning the 2018 Class AA State Football Championship.

Whereas, The Fairmont Senior High School football team had a dominant season on the football field, finishing with a perfect record of 14-0, and winning the 2018 Class AA State Football Championship; and

Whereas, The Fairmont Senior High School football team won by an average score of 50-10, and never trailed in a game at any point all season. The offense scored 696 points and totaled 6,287 yards; and

Whereas, The Fairmont Senior High School football team's senior class is the winningest in school history with an overall record of 46-8, which included one state championship, two

conference championships, three championship game appearances, and one semi-final appearance; and

Whereas, The Fairmont Senior High School football team's senior class has five players continuing their playing careers in college; and

Whereas, The Fairmont Senior High School football team is led by head coach, Nick Bartic, and assistant coaches: Mike Mainella, Mark Sampson, Tyler Phillips, Adam Pethel, Donnie Retton, Paul Kettering, Geno Guerrier, Vincent Delligatti, Nick Hedrick, Troy Bigelow, and Ben Taylor; and

Whereas, The Fairmont Senior High School football team roster consists of players: Nathaniel Clifton, Jacob Cottingham, Breeden Gilbert, Rhett Heston, Connor Neal (2018 Kennedy Award winner), Jake Pitman, Elijah Posey, Exavier Posey, Magnus Sheets, J. D. Smith, Caleb Walker, Franklin Bush, Gavin Collins, Zach Frazier, Nick Jenab, Nate Kowalski, Camden Long, Camden Longwell, Dominick Owens, Lance Payton, Kole Richmond, Frank Smith, Malachi West, Zach Anderson, Ryan Bohn, Alex Brophy, Kieishawn Cottingham, Aidan Green, Drew Laird, Gage Micheal, Will Runyan, Jayden Richardson, Nicky Scott, Zack Toothman, Alec Cross, Jace Dalton, Evan Dennison, Max Gray, Aaron Harris, Nick Hibbs, Tion Jules, Jaden Moore, Kayson Nealy, Nick Secreto, Andrew Smith, Eric Smith, Tim Smith, Dom Stingo, and Koby Toothman; and

Whereas, The Fairmont Senior High School football team is a shining example to all West Virginians of what can be accomplished with dedication, commitment, and teamwork, and will be remembered as of the best teams ever assembled in West Virginia high school football history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Fairmont Senior High School football team for winning the 2018 Class AA State Football Championship; and, be it



*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Fairmont Senior High School football team.

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.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Prezioso and Weld regarding the adoption of Senate Resolution 50 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:58 a.m., the Senate recessed to present Senate Resolution 50.

The Senate reconvened at 12:02 p.m. and proceeded to the seventh order of business.

**Com. Sub. for Senate Concurrent Resolution 25**, US Army PFC Andrew “Bo” Martin Harper 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 35**, Designating days for displaying Honor and Remember Flag at WV Veterans Memorial.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Military.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 259**, Expanding Coyote Control 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 259) 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 266**, Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

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 Committee Substitute for Senate Bill 266 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Hardesty, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Clements, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—16.

Absent: Cline—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 Com. Sub. for S. B. 266) 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 295,** Relating to crimes against public justice.

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 295 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 295) 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 489,** Relating to Pharmacy Audit Integrity 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 489) 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 502**, Exempting sales of investment metal bullion and coins.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 502) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 502) takes effect July 1, 2019.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 545**, Relating to HIV testing.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 545) 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 550**, Declaring certain claims to be moral obligations of state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Mann 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 is a funeral director and involved in some of the items contained in this bill.

The Chair replied that any impact on Senator Mann 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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 550) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—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. 550) 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 2481**, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

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: Baldwin, Beach, Blair, Boley, Boso, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—22.

The nays were: Azinger, Facemire, Hardesty, Mann, Plymale, Prezioso, Roberts, Romano, Smith, Sypolt, and Unger—11.

Absent: Cline—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. 2481) 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 2481**—A Bill to amend and reenact §60-3A-18 and §60-3A-25 of the Code of West Virginia, 1931, as amended, all relating to allowing retail liquor licensees to sell liquor on Sundays, other than Easter Sunday and those Sundays on which Christmas falls, beginning no earlier than 1 p.m.; and removing the criminal offense of selling liquor on Sundays.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Roberts, Smith, and Sypolt—4.

Absent: Cline—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. 2481) takes effect from passage.

*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.

**Com. Sub. for Senate Bill 29**, Creating ten-year tax credits for businesses locating on post-coal mine sites.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 117**, Relating to incentives for consolidating local governments.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 147**, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

On second reading, coming up in regular order, was read a second time.

Following a point of inquiry to the President, with resultant response thereto,

At the request of Senator Sypolt, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.



**Senate Bill 333**, Exempting automobiles 25 years or older from personal property taxes.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 512**, Regulating pawnbrokers.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Senate Bill 617**, Relating to method of payment to Municipal Pensions Security Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 618**, Relating to effect on levy rate when appraisal results in tax increase.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Com. Sub. for Senate Bill 310**, Establishing certain requirements for dental insurance.

**Com. Sub. for Senate Bill 326**, Reorganizing state agencies involved in emergency and disaster planning.

**Com. Sub. for Senate Bill 344**, Relating to operation of state-owned farms.

**Com. Sub. for Senate Bill 360**, Relating to third-party litigation financing.

**Senate Bill 519**, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

**Com. Sub. for Senate Bill 553**, Relating to federal funds for land-grant institutions.

**Senate Bill 587**, Relating to PEIA reimbursement of air ambulance providers.

**Com. Sub. for Senate Bill 601**, Relating to mandatory supervision of adult inmates.

**Senate Bill 635**, Relating generally to coal mining activities.

**Senate Bill 636**, Authorizing legislative rules for Higher Education Policy Commission.

**Eng. Com. Sub. for House Bill 2324**, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

**Eng. Com. Sub. for House Bill 2607**, Relating to the licensure of nursing homes.

**Eng. House Bill 2666**, Supplemental appropriation to the Department of Veterans' Assistance.

And,

**Eng. House Bill 2668**, Supplemental appropriation to the Department of Administration, Public Defender Services.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:02 p.m., the Senate recessed until 2:30 p.m. today.

The Senate reconvened at 3:10 p.m. 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 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 451**, Comprehensive education reform.

On motion of Senator Takubo, 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.**

**§5-16-2. Definitions.**

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) “Agency” means the Public Employees Insurance Agency created by this article.

(2) “Director” means the Director of the Public Employees Insurance Agency created by this article.

(3) “Employee” means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term

“employee” also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the Public Employees Insurance program; a county, city, or town in the State; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or ~~comprehensive mental—retardation~~ intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 et seq. of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an

“employee” during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an “employee” during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an “employee” if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the Public Employees Insurance Agency program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or ~~comprehensive mental retardation~~ intellectually and developmentally disabled facility

established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided by the director. The term “employer” does not include within its meaning the National Guard.

(5) “Finance board” means the Public Employees Insurance Agency finance board created by this article.

(6) “Person” means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option or the group life insurance plan offered by the agency.

(8) “Retired employee” means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but

who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to 5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-22. Permissive participation; exemptions.**

The provisions of this article are not mandatory upon any employee or employer who is not an employee of or is not the State of West Virginia, its boards, agencies, commissions, departments, institutions or spending units, or a county board of education, and nothing contained in this article ~~compels~~ any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article: Provided, That nothing in this section requires a public charter school to participate in the Public Employees Insurance Agency program.

Those employees enrolled in the insurance program authorized under the provisions of §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost of the premium may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but employee or employer may not remain enrolled in both programs.

~~Any plan established or administered by the Public Employees Insurance Agency pursuant to this article is exempt from the provisions of chapter thirty three of this code unless explicitly stated. Notwithstanding any provision of this code to the contrary, the Public Employees Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter thirty three of this code.~~

Employers, other than the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the insurance program to notify the director not later than 10 days after the vote.

Any employer, whether the employer participates in the Public Employees Insurance Agency insurance program as a group or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the Public Employees Insurance Agency insurance program as authorized by this article, shall pay to the agency the same contribution toward the cost of coverage for its retired employees,



their dependents or surviving dependents of deceased retired employees as the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer not mandated to participate in the plan is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years: *Provided, however*, That those retired employees of an employer not participating in the plan who retire on or after July 1, 2010, who have participated in the plan as active employees of the employer for less than five years are responsible for the entire premium cost for coverage and the Public Employees Insurance Agency shall bill for and collect the entire premium from the retired employees, unless the employer elects to pay the employer share of the premium. Each employer is hereby authorized and required to budget for and make such payments as are required by this section.

## CHAPTER 11. TAXATION.

### ARTICLE 8. LEVIES.

#### **§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.**

(a) Notwithstanding any other provision of law except §11-8-6f(c) of this code, where any annual appraisal, triennial appraisal, or general valuation of property would produce a statewide aggregate assessment that would cause an increase of two percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than 102

percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five of this article for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred two percent: *Provided*, That the 102 percent figure shall be increased by the amount the boards of education's increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by 100; the resulting number is the Class I regular levy rate, stated as cents-per-100 of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section.

(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.

(c) Beginning with the 2020 fiscal year and the 2019 tax year, §11-8-6f(a) and (b) of this code shall expire and the regular levy rates for the county boards of education shall be the following: (1) For Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per \$100; and (3) for Class III and Class IV property, 77.6 cents per \$100: *Provided*, That county boards of education may increase their regular levy rates through a majority vote of their members up to the sum of the levy rates set forth in subdivisions (1), (2), and (3), section six-c of this article for each class of property, which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class II property, 45.9 cents per \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100: *Provided, however*, That prior to any regular levy rate increase, such increase must be approved by a majority vote of the voters of the county at a general election.

~~(e)~~ (d) The State Tax Commissioner shall report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability by March 1 of each year on the progress of assessors in each county in assessing properties at the Constitutionally required 60 percent of market value and the effects of increasing the limit on the increase in total property tax revenues set forth in this section to two percent.

~~(e)~~ (e) *Growth County School Facilities Act. — Legislative findings.* —

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers, and administrators; however, some counties of this state have experienced significant increases in enrollment due to significant growth in those counties; that those counties experiencing significant increases do not have adequate facilities to accommodate students, teachers, and administrators. Therefore, the Legislature finds that county boards of education in those high-growth counties should have the authority to designate revenues generated from the application of the regular school board levy due to new construction or improvements placed in a Growth County School Facilities Act Fund be used for school facilities in those counties to promote the best interests of this state's students.

(1) For the purposes of this subsection, “growth county” means any county that has experienced an increase in second month net enrollment of 50 or more during any three of the last five years, as determined by the state Department of Education.

(2) The provisions of this subsection shall only apply to any growth county, as defined in subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use the provisions of this subsection.

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The statewide regular school board levy rate as established by the Legislature shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth County School Facilities Act Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the School Building Authority or for the payment of bonded indebtedness incurred for school facilities. For any growth county choosing to use the provisions of this subsection, estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as local funds for purposes of the computation of local share under the provisions of §18-9A-11 of this code.

(e) (f) This section, as amended during the legislative session in the year 2004, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the

invalid provision or its application and to this end the provisions of this section are declared to be severable.

## **ARTICLE 21. PERSONAL INCOME TAX.**

### **§11-21-25. Education expenses tax credits.**

(a) Credit allowed. — For those tax years beginning on or after January 1, 2019, there is allowed a nonrefundable credit for expenditures on qualified educational expenses incurred by a teacher or service person employed by a public or private school. “Teacher” and “service person” have the meanings ascribed to them in §18-1-1 of this code except that the teacher or service person may be employed in either a public school or in a comparable position in a private school in this state.

(b) Amount of credit. — A teacher or service person employed by a public or private school may claim a tax credit not to exceed \$250.

(c) Qualifying educational expenses. — Qualifying expenses include costs relating to computer equipment including education-related software and services, textbooks, workbooks, curricula and other written or supplementary materials used for curricular, cocurricular, or extra-curricular instruction and expenses for curricular or cocurricular activities.

(d) Unused credit. — If any credit remains after application of §11-21-25(c) of this code, that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any unused portion of any annual credit allowance.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-16. Student transfers; ~~definitions; legislative findings;~~ appeals; calculating net enrollment; fees for transfer.**

(a) ~~County districts and school attendance.~~ — ~~Establishment of attendance zones within counties.~~ — The county board ~~may divide~~ shall establish attendance zones within the county ~~into such districts as are necessary to determine~~ to designate the schools the

~~that its resident~~ students ~~of its county~~ shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board ~~shall be~~ is final.

~~(b) Transfers between counties; legislative findings—~~

~~(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.~~

~~(2) Legislative findings.— Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.~~

~~Therefore the Legislature makes the following findings:~~

~~(A) County lines may impede the effective and efficient delivery of education services;~~

~~(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;~~

~~(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and~~

~~(D) Where counties cannot agree, it is necessary to establish a process to determine when transfers are appropriate.~~

~~(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.~~

~~(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:~~

~~(i) Travel time for the student;~~

~~(ii) Impact on levies or bonds;~~

~~(iii) Other financial impact on the county of residence; and~~

~~(iv) Such other factors as the state superintendent may determine.~~

~~(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.~~

~~(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.~~

~~(D) If a student is transferred on either a full time or a part time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.~~

~~(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:~~

~~(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine-a [ §§ 18-9A-1 et seq. ] of this chapter; and~~

~~(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.~~

~~(c) *Transfers between high schools.*— In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

(b) *Definitions.* – For the purposes of this section, unless a different meaning clearly appears from the context:

“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) *Enrollment policies.* – County boards may establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures,



transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed tenth grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

(E) Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

(2) A county must comply with all enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(6)).

(3) The county board for the county educating the nonresident student may provide an adequate means of transportation to nonresident students when students have complied with the procedure for obtaining authorization to attend school outside their county of residence, subject to the following:

(A) County boards of education are not required to uniformly provide nonresident student transportation, and may consider

whether a nonresident student meets the eligibility criteria for free or reduced price lunches and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. §1758); and

(B) The county board for the county educating the nonresident student shall provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student with disabilities has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

(d) Appeal. – The state board of education shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to accept the transfer of the student. If during the appeal process, the State Superintendent discovers that the education and the welfare of the student could be enhanced, the State Superintendent may direct that the student may be permitted to attend a school in the receiving county.

(e) Net enrollment. – For purposes of net enrollment as defined in §18-9A-2 of this code, whenever a student is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the student is transferred shall include the student in its net enrollment, subject to the following:

(1) If, after transferring to another county, a student chooses to return to a school in his or her county of residence after the second month of any school year, the following applies:

(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in §18-9A-1 et seq. of this code; and

(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

~~(e) *Transfers between high schools.* — In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

~~(d) (f) *Transfers between states.* — Transfer of students from this state to another state shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the ~~transferring~~ receiving county and the ~~authorities~~ board of the school ~~to~~ or district from which the transfer is made.~~

~~(e) (g) No parent, guardian, or person acting as parent or guardian shall be is required to pay for the transfer of a student or for the tuition of the student after the transfer when ~~such~~ the transfer is carried out under the terms of this section.~~

~~(h) Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission.~~

~~(i) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.~~

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

~~(a) The provisions of this section expire effective July 1, 2019: Provided, That any agreements made pursuant to this section prior to July 1, 2019, shall remain in effect.~~

~~(b) Whenever, in the opinion of the board of Education of any county, the education and welfare of a pupil will be enhanced, the board of Education of such county shall have the authority to~~

transfer any such pupil or pupils on a part-time or full-time basis from one school district to another school district within the state: *Provided*, That the boards of education of both the transferor and the transferee districts agree to the same by official action of both boards as reflected in the minutes of their respective meetings.

(c) Any pupil attending a school in a district of this state adjacent to the district of residence during the school year one thousand nine hundred eighty-four—eighty-five, is authorized to continue such attendance in the adjacent district, and, upon written request therefor by the parent or guardian, any person who is entitled to attend the public schools of this state and who resides in the same household and is a member of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor and transferee school districts shall effectuate any transfer herein authorized in accordance with the provisions of this section.

(d) Whenever a pupil is transferred from one school district to another district on a full-time or part-time basis, the board of Education of the school district in which the pupil is a bona fide resident shall pay to the board of Education of the school district to which the pupil is transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall not exceed the difference between the state aid per pupil received by the county to which the pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

(e) For purposes of net enrollment as defined in section two, article nine-a of this chapter: (1) Whenever a pupil is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the pupil is transferred shall include such pupil in its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

**§18-5-18b. School counselors in public schools.**

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18-3-1 *et seq.* of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American school counselor association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel shall spend at least ~~seventy five~~ eighty percent of work time in a direct counseling relationship with pupils, and shall devote no more than ~~one fourth~~ twenty percent of the work day to administrative activities: *Provided*, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

**§18-5-32. Assistant superintendents; directors and supervisors of instruction and other educational activities.**

(a) The county board, upon the recommendation of the county superintendent, may employ an assistant whose term of employment may be not less than one nor more than four years: *Provided*, That his or her term may not extend beyond that of the incumbent county superintendent.

(b) The board may not employ more than one assistant for each 200 teachers or major fraction thereof.

(c) The county board, upon the recommendation of the county superintendent, is authorized to employ general and special supervisors or directors of instruction and of other educational activities as may be considered necessary.

(d) The employment of the assistant superintendent shall be on a 12-month basis. ~~The period of employment for all others named herein shall be at the discretion of the county board.~~

(e) Rules for qualifications of assistant superintendents, and directors and supervisors of instruction and of other educational activities shall be fixed by the state board: *Provided*, That the qualifications required for any assistant superintendent may not be higher than those required for the county superintendent: *Provided, however*, That the rules do not affect the status of any incumbent nor his or her right to succeed himself or herself in his or her assigned position.

(f) The county board is authorized to reimburse the employees for their necessary traveling expenses upon presentation of a monthly, itemized, sworn statement approved by the county superintendent.

~~(g) Any person employed under the foregoing provision of this section, provided he or she holds a valid teacher's certificate, shall~~

~~be given continuing contract status as a teacher and shall hold that status unless dismissed for statutory reasons.~~

(h) The job duties of a professional educator employed under the provisions of this section, including a professional educator employed as a “supervisor” or “central office administrator” as defined in §18A-1-1 of this code, shall include substitute teaching on at least three instructional days each school year: *Provided*, That the substitute teaching requirement of this subsection does not apply to the superintendent and those who have never held a teaching certificate or an administrative certificate.

(i) All acts or parts of acts inconsistent with this section are hereby repealed.

**§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating to promotion.**

(a) No teacher may be required by a principal or any other person to change a student’s grade on either an individual assignment or a report card unless there is clear and convincing evidence that there was a mathematical error in calculating the student’s grade.

(b) The teacher’s recommendation relating to whether or not a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

**5B. SCHOOL INNOVATION ZONES ACT**

**~~§18-5B-14. Termination of funding for School Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones.~~ Funding for Innovation Zones.**

~~No school, group of schools, district, subdivision or department of a group of schools, or a subdivision or department of a school designated or to be designated as an Innovation Zone or Local Solution Dropout Prevention and Recovery Innovation Zone shall receive any funding pursuant to this article after June 30, 2016.~~

Nothing in this section prevents counties from establishing magnet schools within their boundaries and such magnet schools shall be eligible for funding under the terms of the Act.

#### **§18-5B-15. Funding for Innovation Zones.**

There is hereby created in the State Treasury a special revenue fund to be known as the “Innovation Zone Fund.” The fund shall consist of all moneys received from whatsoever source to further the purpose of this article. At a minimum, these funds shall consist of a 5 million dollar line item appropriation for the purposes of this article. The fund shall be administered by the state board solely for the purposes of this article, including providing grants and other financial assistance to innovation zone designated schools to implement and carry out such school’s innovation zone plans. Any moneys remaining in the fund at the close of the fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state’s consolidated investment fund and any and all interest shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this article.

### **ARTICLE 5G. PUBLIC CHARTER SCHOOLS.**

#### **§18-5G-1. Legislative purpose and intent.**

(a) The West Virginia Legislature hereby authorizes a pilot program under which existing public schools may be converted into public charter schools to allow new, innovative, and more flexible ways of educating all children who choose to attend and advance a renewed commitment to the mission, goals, and diversity of public education. The purposes of this public charter school initiative are to:

(1) Improve student learning by creating more diverse public schools with high standards for student performance;

(2) Provide innovative educational methods and practices through programs that engage students in the learning process, thus resulting in higher student achievement;



(3) Enable schools to establish a distinctive school curriculum, a specialized academic theme, or method of instruction; and

(4) Allow schools enhanced freedom and flexibility in exchange for exceptional levels of results-driven accountability.

**§18-5G-2. Definitions.**

The following words used in this article and any proceedings pursuant thereto have the following meanings unless the context clearly indicates a different meaning:

(1) “Applicant” means an organization or group comprised primarily of parents and others who reside within the community served by the school who:

(A) Have obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status;

(B) Develop and submit an application to become a conversion public charter school to an authorizer;

(C) May include as partner organizations a public or private institution or institutions of higher education and partners in business and industry; and

(D) With respect to an application for a conversion public charter school, in addition to the other requirements of this article, the applicants shall demonstrate support for the proposed conversion to a public charter school by:

(i) Submitting a petition for conversion signed by a majority of the employees of the school proposed for conversion; and

(ii) Submitting a petition for conversion signed by a majority of the parents, guardians or custodians of the students enrolled in the school proposed for conversion.

(2) “Authorizer” means the county board of education of the county in which the conversion public charter school is proposed to be located;

(3) “Charter application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;

(4) “Charter contract” or “contract” means a fixed-term, renewable contract between a public charter school’s governing board and an authorizer that identifies the roles, powers, responsibilities, operational duties, accountability, and performance expectations for each party to the contract, consistent with the requirements of this article;

(6) “Conversion public charter school” means a public charter school that existed as a noncharter public school before becoming a public charter school;

(7) “County board” means a county board of education;

(8) “Education service provider” means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;

(9) “Governing board” means a board of directors as provided for in §18-5G-3 of this code;

(10) “Noncharter public school” means a public school other than a public charter school established pursuant to this article;

(11) “Parent” means a parent, guardian, or other person or entity having legal custody over a child;

(12) “Public charter school” means a public school established pursuant to this article that:

(A) Is a public school and is part of the state’s system of public education but is exempt from all statutes and administrative regulations applicable to the state board, a county board, or a school unless expressly stated otherwise in this article: *Provided*, That nothing in this article prohibits a public charter school from complying with any statute, state board policy, or county board

policy applicable to noncharter public schools: *Provided however, That no charter school can be established or operated as a virtual charter school.*

(B) Is a public corporate body, exercising public power through its governing board, including the power in name to contract and be contracted with, sue and be sued, and adopt bylaws not inconsistent with this article;

(C) Has autonomy over decisions relating to finance, personnel, scheduling, curriculum, and instruction consistent with this article and its charter contract;

(D) Is governed by a governing board that is independent of a county board except as otherwise provided in this article;

(E) Is established and operating under the terms of a charter contract between the public charter school's governing board and its authorizer;

(F) Is a public school to which parents choose to send their children;

(G) Is a public school that admits students on the basis of a random and open lottery if more students apply for admission than can be accommodated, pursuant to and subject to §18-5G-4 of this code;

(H) Offers a comprehensive instructional program that meets or exceeds the student performance standards adopted pursuant to §18-2E-5 of this code; and

(I) Operates under the oversight of its authorizer in accordance with its charter contract;

(13) "State board" means the West Virginia Board of Education; and

(14) "Student" means any person that is eligible for attendance in a public school in West Virginia.

**§18-5G-3. Authorization for the establishment of public charter schools; governing board.**

(a) The authorization for the establishment of public charter schools in this state is limited as a pilot project to two elementary schools that are low performing, that have been designated as federal Title I eligible schools, that meet the definition of an applicant to become a conversion public charter school, and that are authorized by their respective county board.

(b) No elected official may profit or receive any monetary consideration from a charter school: *Provided*, That this prohibition does not apply with respect to the continued employment of an elected official who was employed by a public school prior to its conversion to a public charter school.

(c) A public charter school authorized under this article shall:

(1) Adhere to the same immunization, civil rights, and disability rights requirements applicable to noncharter public schools;

(2) Have no entrance requirements or charge any tuition or fees: *Provided*, That a public charter school may require the payment of fees on the same basis and to the same extent as noncharter public schools.

(3) Have no power to levy taxes.

(4) Be governed by a governing board as specified in subsection (d) of this section;

(5) Provide instructional time that is at least equal to the number of days or their equivalent required by §18-5-45 of this code;

(6) Require criminal background checks for staff and volunteers, including members of its governing board, as required of all noncharter public school employees and volunteers;

(7) Prohibit contractors and service providers or their employees from making direct, unaccompanied contact with students or accessing school grounds unaccompanied when students are present if it cannot be verified that the contractors, service providers, or their employees have not been previously convicted of a qualifying offense pursuant to §18-5-15c of this code;

(8) Ensure student participation in the required state summative assessment pursuant to §18-2E-5 of this code;

(9) Adhere to generally accepted accounting principles and adhere to the same financial audits, audit procedures, and audit requirements applicable to noncharter public schools;

(10) Utilize the same system for reporting student information data and financial data as is utilized by noncharter public schools;

(11) Comply with the Freedom of Information Act as set forth in §29B-1-1 *et seq.* of this code;

(12) Report data using the West Virginia Education Information System or successor data reporting system that noncharter public schools use;

(13) Operate under the oversight of its authorizer in accordance with its charter contract;

(14) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(15) Enroll students in the public charter school pursuant to §18-5G-4 of this code;

(16) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board;

(17) Serve one or more of grades and limit admission to students within the grade levels served; and

(18) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(d) A public charter school authorized under this article may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools; and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(e) A county board may not require any employee of the local school district to be employed in a charter school. A county board may not harass, threaten, discipline, discharge, retaliate or in any manner discriminate against any district employee involved directly or indirectly with an application to establish a charter school as authorized under this section.

(f) All personnel in a public charter school shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools.

(g) *Public charter school governing board.* —

(1) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members.

(2) The governing board of a conversion public charter school authorized under this article shall consist of the following members elected or selected in a manner specified in the charter application:

(A) Two parents of students attending the public charter school;

(B) Two members who reside in the community serves by the public charter school;

(C) Two faculty members employed at the public charter school;

(D) Two persons appointed by the authorizing county board;  
and

(E) One representative of the State Superintendent.

(3) Members of the governing board shall:

(A) Not be an employee of an education service provider that provides services to the public charter school; and

(B) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who have other business dealings with the school, the management organization of the school, or any other public charter school.

(4) Members of the governing board shall collectively possess expertise in leadership, curriculum and instruction, law, and finance.

(5) A member of the public charter school governing board shall be considered an officer of a school district under the provisions of §6-6-7 of this code, and may only be removed from office under the provisions of that section.

(6) The governing board shall be responsible for the operation of its public charter school, including, but not limited to, preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(7) The governing board shall comply with open governmental proceedings requirements set forth in §6-9A-1 *et seq.* of this code.

**§18-5G-4. Enrollment in a public charter school; recruitment and retention plans.**

(a) A public charter school may enroll any student residing in the state. A student enrolled in a public charter school shall be included in the net enrollment of the county in which the school is located for the purposes of §18-9A-1 *et seq.*, and shall be allocated to the public charter school in accordance with the State Board rule promulgated pursuant to section §18-5G-13 of this article.

(b) A conversion public charter school shall guarantee enrollment to all students who were previously enrolled in the



noncharter public school and to all students who reside in the school's attendance area. All students who reside in the attendance area of a public school that converts to a public charter school may enroll in the public charter school if they choose to do so. The school shall adopt and maintain a policy that gives enrollment preference to students who reside within the attendance area as established prior to the conversion of the school. An enrollment preference also shall be given to students enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. If the school has excess capacity after enrolling students within the attendance area and those with preference, students outside the attendance area are eligible for enrollment;

(c) Except as provided in subsection (b) of this section, if the capacity of a public charter school is insufficient to enroll all students who wish to attend any specific grade level at a public charter school, the school shall select students through a randomized and transparent lottery: *Provided*, That the state board shall promulgate a rule to guide student application and lottery procedures for public charter schools.

(d) Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. An enrollment preference for returning students shall exclude those students from entering into a lottery, as identified in §18-5G-4(b) of this code.

(e) A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and at-risk students.

(f) A public charter school may give enrollment preference to children of a public charter school's governing board members and full-time employees, as long as they constitute no more than 10 percent of the school's total student population.

(g) Every charter school shall submit a recruitment and retention plan annually to its authorizer. The plan shall list

deliberate, specific strategies the school will use to attract, enroll, and retain a student population that includes students who are, to the extent applicable:

(1) Limited English proficient;

(2) Special education;

(3) Low income;

(4) Below proficiency on the comprehensive statewide student assessment;

(5) At risk of dropping out of school;

(6) Have dropped out of school; or

(7) Any others who should be targeted to eliminate achievement gaps.

(h) If a student who was previously enrolled in a public charter school transfers enrollment to a noncharter public school in this state, the school to which the student transfers shall accept credits earned by the student in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other noncharter public schools or that consider content competency when appropriate due to differences in curriculum delivery, instructional methods and strategies, or course designations and sequence.

**§18-5G-5. Application to establish public charter school.**

(a) To convert an existing noncharter public school to a public charter school, an applicant shall submit a charter application to an authorizer: Only a county board may authorize the conversion of an existing noncharter public school to a public charter school. Charter authorizers shall accept and document the date and time of receipt of all charter applications.

(b) The application shall contain, at a minimum, the following information:

(1) A mission statement and a vision statement for the public charter school, including specialized academic focus, if any, to be promoted and advanced through the establishment of the public charter school;

(2) A detailed description of the public charter school's proposed program;

(3) The student achievement goals for the public charter school's program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals;

(4) The school's plan for using data derived from student evaluations and assessments, including the statewide summative assessment, to drive instruction and promote continued school improvement;

(5) An explanation of how the school's proposed program is likely to improve the achievement of traditionally underperforming students in the local school district;

(6) The proposed governance structure of the school, including a list of members of the initial governing board, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of governing board members, and the organizational structure of the school that clearly presents lines of authority and reporting between the governing board, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(7) Plans and timelines for student enrollment, including policies and procedures for conducting transparent and random admission lotteries that are open to the public, and that are consistent with this article;

(8) A proposed five-year budget, including the start-up year and projections for four additional years with clearly stated assumptions;

(9) Proposed fiscal and internal control policies for the public charter school;

(10) Acknowledgement that the public charter school will participate in the state's accountability system;

(11) A proposed handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;

(12) An explanation of proposed student discipline procedures, including disciplinary procedures for students with disabilities, which shall be consistent with the requirements of due process and with state and federal laws and regulations governing the placement of students with disabilities;

(13) A description of the facilities to be used by the public charter school, including the location of the school and how the facility supports the implementation of the school's program. The school shall obtain all required occupation and operation certificates and licenses prior to the first instructional day for students;

(14) The proposed ages and grade levels to be served by the public charter school, including the planned minimum and maximum enrollment per grade per year;

(15) The school calendar and school day schedule, which shall meet the requirements of §18-5-45 of this code;

(16) Types and amounts of insurance coverage to be obtained by the public charter school, which:

(A) Shall include adequate insurance for liability, property loss, and the personal injury of students comparable to noncharter public schools within the local school district operated by the county board; and

(B) May include coverage from the Board of Risk and Insurance Management pursuant to §29-12-5a of this code;

(17) A description of the food services to be provided to students attending the school;

(18) Process and procedures to be followed in the case of the closure or dissolution of the public charter school, including provisions for the transfer of students and student records to the appropriate local school district and an assurance and agreement to payment of net assets or equity, after payment of debts as specified in §18-5G-8 of this code;

(19) A code of ethics for the school setting forth the standards of conduct expected of its governing board, officers, and employees;

(20) The public charter school's plan for successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including, but not limited to, the school's plan for compliance with all applicable federal and state laws and regulations;

(21) A description of cocurricular and extracurricular programs to be offered by the public charter school and how they will be funded and delivered;

(22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan; and

(24) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

**§18-5G-6. Authorizer duties and responsibilities.**

(a) An authorizer shall:

(1) Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;

(2) Approve new charter applications that meet the requirements of this section and §18-5G-5 of this code, demonstrate the ability to operate the school in an educationally and fiscally sound manner, and are likely to improve student achievement through the program detailed in the charter application;

(3) Decline to approve charter applications that fail to meet the requirements of §18-5G-5 of this code;

(4) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(5) Monitor the performance and compliance of public charter schools according to the terms of the charter contract;

(6) Determine whether each charter contract it authorizes merits renewal or revocation; and

(7) Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:

(A) Organizational capacity and infrastructure;

(B) Evaluating applications;

(C) Ongoing public charter school oversight and evaluation;  
and

(D) Charter approval, renewal, and revocation decision-making.

(b) After an applicant submits a written application to establish a public charter school, the authorizer shall:

(1) Complete a thorough review process;

(2) Conduct an in-person interview with the applicant;

(3) Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;

(4) Provide a detailed analysis of the application to the applicant or applicants;

(5) Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and

(6) Approve or deny a charter application based on established objective criteria or request additional information.

(c) In deciding to approve a charter application, the authorizer shall:

(1) Approve charter applications only to applicants that possess competence in all elements of the application requirements identified in this section and §18-5G-5 of this code;

(2) Base decisions on documented evidence collected through the application review process; and

(3) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.

(d) No later than 90 days following the filing of the charter application, the authorizer shall approve or deny the charter application. The authorizer shall provide its decision in writing, including an explanation stating the reasons for approval or denial of its decision during an open meeting. Any failure to act on a charter application within the time specified shall be deemed an approval by the authorizer.

(e) An authorizer's charter application approval shall be submitted to the West Virginia Department of Education.

(f) No public charter school may begin operations prior to July 1, 2020.



(g) Notwithstanding any provision of this code to the contrary, no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school. Neither the county board of education nor the State of West Virginia shall be liable for the debts or financial obligations of a public charter school or any person or entity that operates a public charter school.

(h) To cover authorizer costs for overseeing public charter schools in accordance with this Act, each public charter school shall remit to its respective authorizer an oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of the per student operational funding allocated to each public charter school under §18-5G-12 of this code, not to exceed one percent of each public charter school's per-student funding in a single school year. The state board shall establish a statewide formula for authorizer funding, which shall apply uniformly to every authorizer in the state. The state board may establish a sliding scale for authorizing funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of schools have been authorized or after a certain number of students are enrolled in the authorizer's public charter schools. The state board shall establish a cap on the total amount of funding that an authorizer may withhold from a full-time charter school. The state board shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this act.

**§18-5G-7. Charter contract requirements; term of contract.**

(a) Within 90 days of the approval of a charter application, the governing board and the authorizer shall negotiate and enter into a charter contract.

(b) The charter contract shall address, in detail, the following items:

(1) The term of the contract: *Provided*, That the contract term shall be no longer than five years;

(2) The agreements relating to each item required under §18-5G-5(b) and §18-5G-5(c) of this code;

(3) The rights and duties of the authorizer and the public charter school;

(4) The administrative relationship between the authorizer and the public charter school;

(5) The process the authorizer will use to provide ongoing oversight;

(6) The specific commitments of the authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;

(7) The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found;

(8) The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the governing board;

(9) The process agreed to by the authorizer and the governing board that identifies how disputes between the authorizer and the board will be handled; and

(10) Any other terms and conditions agreed to by the authorizer and the governing board, including preopening conditions.

(c) The charter contract shall include provisions relating to the performance of the public charter school that set forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the performance provisions shall include indicators, measures, and metrics for:

(1) Student academic proficiency;

(2) Student academic growth;

(3) Achievement gaps in both student proficiency and student growth between student subgroups, including race, sex, socioeconomic status, and areas of exceptionalty;

(4) Student attendance;

(5) Student suspensions;

(6) Student withdrawals;

(7) Recurrent enrollment from year to year;

(8) Governing board's performance and stewardship, including compliance with all applicable statutes and terms of charter contract; and

(9) Additional valid and reliable indicators requested by the public charter school.

(d) The authorizer shall be responsible for collecting and reporting to the state board all state-required assessment and achievement data for the public charter school.

(e) The charter contract shall be signed by the chair of the governing board and the president of the county board. A copy of the charter contract shall be provided to the State Superintendent of Schools.

(f) No public charter school may commence operations without a charter contract that meets the requirements of this section, has been properly executed, and has been approved by the county board.

**§18-5G-8. Renewal or nonrenewal of charter contracts; revocation of charter contracts; rulemaking; right to appeal.**

(a) A charter contract may be renewed by the authorizer for a term of no more than five years. Authorizers may grant renewal with specific conditions for necessary improvements in the public

charter school: *Provided*, That any specific condition imposed does not contradict the terms of this article.

(b) The State Board of Education shall promulgate a rule establishing the process for renewing or not renewing a charter contract. At a minimum, this rule shall include:

(1) A timeline for a governing board to submit an application for renewal to an authorizer;

(2) The information that must be included in an application for renewal;

(3) If the authorizer initially determines to deny a renewal application:

(A) Notification requirements to the governing board about the prospect of nonrenewal and the reasons for possible closure of the public charter school;

(B) An opportunity and timeframe for the governing board to provide a response to the notice of the nonrenewal;

(C) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should be renewed; and

(D) An opportunity for a recorded public hearing, at the request of the governing board;

(4) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the nonrenewal of the charter contract;

(5) The information that must be included in the authorizer's final decision if it determines to deny a renewal application;

(6) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(7) Approval of the authorizer's decision shall be adopted by the county board during an open meeting; and

(8) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of the renewal application.

(c) A charter contract shall not be renewed if the authorizer determines that the public charter school has:

(1) Committed a material violation of any of the terms, conditions, standards, or procedures required under this article or the charter contract, and has persistently failed to correct the violation after fair and specific notice from the authorizer;

(2) Failed to meet or make significant progress toward the program performance expectations identified in the charter contract;

(3) Failed to meet generally accepted standards of fiscal management, and has failed to correct the violation after fair and specific notice from the authorizer; or

(4) Substantially violated any material provision of law from which the public charter school was not exempted and has failed to correct the violation after fair and specific notice from the authorizer.

(d) A charter contract shall include provisions for revoking the charter contract. At a minimum, these provisions shall include:

(1) The information that must be included in the authorizer's initial decision to revoke the charter contract;

(2) Notification requirements to the governing board about the authorizer's initial decision to revoke a charter contract and the reasons for the revocation;

(3) An opportunity and timeframe for the governing board to provide a response to the authorizer's initial decision to revoke the charter contract;

(4) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should not be revoked;

(5) An opportunity for a recorded public hearing, at the request of the governing board;

(6) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract;

(7) The information that must be included in the authorizer's final decision if it determines to revoke the charter contract;

(8) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(9) Approval of the authorizer's decision shall be adopted during an open meeting; and

(10) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed.

(e) Notwithstanding the process set forth in §18-5G-8(d) of this code, an authorizer shall take immediate action to revoke a charter contract if the health and safety of students attending the public charter school is threatened.

(f) An authorizer shall develop a public charter school closure protocol or protocol for transitioning a charter school to noncharter public school status. The protocol shall ensure timely notification to parents, orderly transition of students and student records to new schools when applicable, and proper disposition of school funds, property, and assets. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the public charter school and the authorizer. If a public charter school closes or transitions to noncharter public school status for any reason, the authorizer shall oversee and work with the closing or transitioning school to ensure a smooth and orderly closure or

transition and transition for students and parents, as guided by the closure or school transition protocol. If a public charter school is subject to closure or transition, following exhaustion of any appeal allowed under §18-5G-10 of this code, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure or transition. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure or transition of the public charter school in the name and interest of the public charter school.

### **§18-5G-11. Prohibitions.**

Notwithstanding any provision in this article that may be interpreted to the contrary, a public charter school may not:

(1) Be home-school based; and

(2) Discriminate on any basis for which the noncharter public schools of this state may not discriminate: *Provided*, That nothing in this subsection may be construed to limit the formation of a public charter school that is dedicated to focusing education services on at-risk students, students with disabilities, and students who pose such severe disciplinary problems that they warrant a specific education program.

### **§18-5G-12. State board rule relating to funding for charter school enrollment and other necessary provisions.**

(a) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code setting forth requirements for public charter school funding. The rule shall include a requirement that 90 percent of the per pupil total basic foundation allowance follow the student to the public charter school, subject to the following:

(1) Notwithstanding §18-9A-1 *et seq.* of this code, the rule may provide for modifications to the calculations outlined in §18-9A-7 regarding the allowance for student transportation and in §18-9A-9(1) regarding the allowance for current expense for the purpose of

providing additional state aid funding to county boards of education related to the operation of public charter schools;

(2) The rule shall designate which county school district is required to pay for a student attending a public charter school; and

(3) The rule shall require the Department of Education to follow federal requirements in ensuring that federal funding follows the student to a public charter school.

(b) The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code to clarify, if necessary, the requirements of this article and address any unforeseen issues that might arise relating to the implementation of the requirements of this article.

(c)-The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code, if necessary, for ensuring the accountability of public charter schools for meeting the standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. If an authorizer fails to close a charter school that does not meet the standards, the authorizer shall appear before the State Board to justify it's decision. The State Board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize charter schools.

### **§18-5G-13. Access to public facilities.**

(a) A public charter school may request usage of public facilities from a local county board where the charter school is located. A local county board or other public entity shall make facilities available for use or lease to the charter school that are not a currently in use as an operating public school or which are available at the time the charter school seeks to use in whole or in part for a legitimate public school use.

(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.



(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs and remodeling. The county school board is responsible for any debt incurred or liens that are attached to the school building before the charter school leases the public facility.

#### **§18-5G-14. Reports.**

(a) An authorizer that has authorized a public charter school that is currently in operation shall submit to the state superintendent for presentation to the state board an annual report within 60 days of the end of each school fiscal year summarizing:

(1) The performance of the public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;

(2) The authorizing duties and functions provided by the authorizer during the previous academic year.

(b) One year after public charter schools have been in operation, and each year thereafter, the State Superintendent shall issue to the Governor, the Legislature, and the general public, a report on the state's public charter school program, drawing from the annual reports submitted by authorizers pursuant to this section, as well as any additional relevant data compiled by the State Superintendent up to the school year ending in the preceding calendar year. The report must include an assessment of the public charter school program's successes, challenges, and areas for improvement in meeting the purposes of this chapter as well as any suggested changes in state law or policy necessary to strengthen the public charter school program.

### **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

#### **§18-7A-3. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) “Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.

(2) “Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

(3) “Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

(4) “Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

(5) “Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last 15 fiscal years of total service credit, including military service as provided in this article, or if total service is less than 15 years, the average annual salary for the period on which contributions were made: *Provided*, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

(6) “Beneficiary” means the recipient of annuity payments made under the retirement system.

(7) “Contributor” means a member of the retirement system who has an account in the teachers accumulation fund.

(8) “Deposit” means a voluntary payment to his or her account by a member.

(9) “Employer” means the agency of and within the state which has employed or employs a member.

(10) “Employer error” means an omission, misrepresentation, or violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

(11) “Employment term” means employment for at least 10 months, a month being defined as 20 employment days.

(12) “Gross salary” means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member’s rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

(13) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

(14) “Member” means any person who has accumulated contributions standing to his or her credit in the state Teachers Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

(15) “Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

(16) “Members of the extension staff of the public schools” means every agricultural agent, boys’ and girls’ club agent and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

(17) “New entrant” means a teacher who is not a present teacher.

(18) “Nonteaching member” means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; ~~or~~ (E) a governing board, as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to the provisions of §18-7B-7a of this code; Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

(19) “Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

(20) “Present member” means a present teacher or nonteacher who is a member of the retirement system.

(21) “Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

(22) “Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was

employed as a teacher, and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

(23) “Public schools” means all publicly supported schools, including colleges and universities in this state.

(24) “Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

(25) “Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the Consolidated Public Retirement Board, 162 CSR 7.

(26) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

(27) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or ceases covered employment under the system after having attained the age of 70 and one-half years.

(28) “Retirant” means any member who commences an annuity payable by the retirement system.

(29) “Retirement board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(30) “Retirement system” means the state Teachers Retirement System established by this article.

(31) “Teacher member” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of

schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher's certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads, and assistant heads of the divisions under his or her supervision, or any other employee under the State Superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and Rehabilitation, the Division of Health or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; ~~and~~ (L) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 *et seq.* of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (M) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article and §18-7B-1 *et seq.* of this code, subject to the provisions of §18-7B-7a of this code.

(32) "Total service" means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

## **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) “Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cashouts or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan shall not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1;

(2) “Annuity account” or “annuity” means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends or other accumulations credited on behalf of the member;

(3) “Compensation” means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: *Provided*, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, “compensation” has the meaning given it in §18-7B-13(d) of this code;

(4) “Consolidated board” or “board” means the Consolidated Public Retirement Board created and established pursuant to §5-10D-1 *et seq.* of this code;

(5) “Defined contribution system” or “system” means the Teachers’ Defined Contribution Retirement System created and established by this article;

(6) “Employer” means the agency of and within the State of West Virginia which has employed or employs a member;

(7) “Employer contribution” means an amount deposited into the member’s individual annuity account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds;

(8) “Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days;

(9) “Existing employer” means any employer who employed or employs a member of the system;

(10) “Existing retirement system” means the State Teachers Retirement System established in §18B-7A-1 *et seq.* of this code;

(11) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended;

(12) “Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human



Resources; (K) any person who is regularly employed for full-time service by any county board of education or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers' Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article, subject to the provisions of §18-7B-7a and §18-7A-1 et seq. of this code;

(13) "Member contribution" means an amount reduced from the employee's regular pay periods, and deposited into the member's individual annuity account within the Teachers' Defined Contribution Retirement System;

(14) "Permanent, total disability" means a mental or physical incapacity requiring absence from employment service for at least six months: *Provided*, That the incapacity is shown by an examination by a physician or physicians selected by the board: *Provided, however*, That for employees hired on or after July 1, 2005, "permanent, total disability" means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness;

(15) "Plan year" means the 12 month period commencing on July 1 of any designated year and ending on the following June 30;

(16) "Public schools" means all publicly supported schools, including normal schools, colleges and universities in this state;

(17) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay;

(18) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of 70 and one-half years;

(19) “Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement;

(20) “Year of employment service” means employment for at least 10 months, with a month being defined as 20 employment days: *Provided*, That no more than one year of service may be accumulated in any 12 month period.

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article;

(2) Take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so; and

(3) For the purposes of this article, the following definitions shall apply:

(A) “Excused absence” shall be defined to include:

(i) Personal illness or injury of the student or in the family;

(ii) Personal illness or injury of the student’s parent, guardian, custodian, or family member: *Provided*, That the excuse must provide reasonable explanation for why the student’s absence was necessary and caused by the illness or injury in the family;

~~(iii)~~ Medical or dental appointment with written excuse from physician or dentist;

(iv) Chronic medical condition or disability that impacts attendance;

(v) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;

(vi) Calamity, such as a fire or flood;

(vii) Death in the family;

(viii) School-approved or county-approved curricular or extra-curricular activities;

~~(ix)~~ Judicial obligation or court appearance involving the student;

(x) Military requirement for students enlisted or enlisting in the military;

(xi) Personal or academic circumstances approved by the principal; and

(xii) Such other situations as may be further determined by the county board: *Provided*, That absences of students with disabilities shall be in accordance with the Individuals with Disabilities

Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith.

(B) “Unexcused absence” shall be any absence not specifically included in the definition of “excused absence”.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, or assistant, or principal shall ~~serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required.~~ make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant, or principal shall ~~serve written notice to the parent, guardian or custodian of the student that within five days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.~~ again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences. Such measures may include, with approval of the principal, reducing the number of unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant shall make a complaint against the parent, guardian, or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and

that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within 10 calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time, and place of the hearing.

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director and assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures, and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal, or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-2. Definitions.**

For the purpose of this article:

(a) “Law enforcement personnel” means state or local law enforcement personnel hired on as a per diem or salaried employee to provide security services to the school during the hours the school is open to students during a normal school day. Law enforcement personnel includes, but is not limited to, local city police, deputy sheriffs or other officers assigned by any law enforcement agency to the school to provide security for students at the school.

~~(a)~~ (b) “State board” means the West Virginia Board of Education.

~~(b)~~ (c) “County board” or “board” means a county board of education.

~~(c)~~ (d) “Professional salaries” means the state legally mandated salaries of the professional educators as provided in §18-4-1 *et seq.* of this code.

~~(d)~~ (e) “Professional educator” shall be synonymous with and shall have the same meaning as “teacher” as defined in §18-1-1 of this code, and includes technology integration specialists.

~~(e)~~ (f) “Professional instructional personnel” means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is

assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

~~(f)~~ (g) “Professional student support personnel” means a “teacher” as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor’s degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students, including, but not limited to, social workers and psychologists. For all purposes except for the determination of the allowance for professional educators pursuant to section four of this article, professional student support personnel are professional educators.

~~(g)~~ (h) “Service personnel salaries” means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

~~(h)~~ (i) “Service personnel” means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: Provided, That the computation for any service person employed for three and one-half hours or less per day as provided in §18A-4-8a of this code shall be calculated as one half an employment day.

~~(i)~~ (j) “Net enrollment” means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to twelve, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in regular secondary vocational programs existing as of the effective date of this section, subject to the following:



(A) Net enrollment includes no more than ~~1,000~~ 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: *Provided, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;* and

(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) ~~No pupil shall~~ A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) ~~For the purposes of determining the county's basic foundation program only~~ For any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, the net enrollment of the county shall be ~~increased by an amount to be determined in accordance with the following considered to be 1,400 for the purposes of determining the county's basic foundation program only. During the 2019-2020 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions~~

~~properly address the needs of counties with low enrollment and sparse population density.~~

~~(A) Divide the state's lowest county student population density by the county's actual student population density;~~

~~(B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision by the difference between one thousand four hundred and the county's actual net enrollment;~~

~~(C) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than one thousand four hundred, the increase in net enrollment shall be reduced so that the total does not exceed one thousand four hundred; and~~

~~(D) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions properly address the needs of counties with low enrollment and a sparse population density.~~

~~(j)~~ (k) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is less than five.

~~(k)~~ (l) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than 10.

~~(l)~~ (m) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

~~(m)~~ (n) “High-density county” means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of “net enrollment”, to the square miles of the county is equal to or greater than 20.

~~(n)~~ (o) “Levies for general current expense purposes” means 90 percent of the levy rate for county boards of education ~~calculated or set by the Legislature as established in pursuant to §11-8-6f of this code.~~ The levy rate shall be assumed to be the rate established in that section and not an increased rate established by a county board.

~~(o)~~ (p) “Technology integration specialist” means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

~~(p)~~ (q) “State aid eligible personnel” means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution or other specific funding source not listed.

~~(q)~~ (r) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

#### **§18-9A-8. Foundation allowance for professional student support services.**

(a) The basic foundation allowance to the county for professional student support personnel shall be the amount of money determined in accordance with the following:

(1) The sum of the state minimum salaries, as determined in accordance with the provisions of §18-4-1 *et seq* of this code, for all state aid eligible school nurse and counselor positions in the county during the 2008 fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under §18-9A-4 of this code to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under section four of this article and the denominator shall be the total number of professional educators employed that are eligible to be funded under §18-9A-4 of this code;

(2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by one half percent;

(3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic foundation allowance to the county for professional student support personnel for the 2009 fiscal year;

(4) For fiscal years 2010, 2011, 2012 and 2013, the basic foundation allowance to the county for professional student support personnel increases by one-half percent per year over the allowance for the previous year; and

(5) For all fiscal years thereafter until fiscal year 2020, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the 2013 fiscal year, plus any additional amount of funding necessary to cover the increases in the State Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning July 1, 2018, and thereafter.

(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:

(1) Enhance student achievement;

(2) Provide early intervention for students in grades prekindergarten through five; and

(3) Enhance student development and career readiness.

(c) Effective for the 2019-20 fiscal year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay the state minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for four and seventy hundredths state aid eligible professional student support personnel positions to each 1,000 students in net enrollment;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to §18-9A-8(c)(1) of this code that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(3) The number of and the allowance for all personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional student support personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(5) For the 2019-20 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

(d) Effective for the 2019-20 fiscal year and thereafter, the basic foundation allowance to the county for law enforcement personnel is the amount of money required to pay the state

minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance sufficient to provide for one law enforcement officer for each school in the county;

(2) For any law enforcement personnel positions, or fraction thereof, determined for a county pursuant to §18-9A-8(c)(1) of this code that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of law enforcement support personnel for the county, less any federal or other funds received to cover such costs: *Provided, That* if law enforcement personnel are obtained through a contractual arrangement with an outside law enforcement agency, the county average state funded salary of the professional student personnel shall be used;

(3) The number of and the allowance for all personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the law enforcement personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(5) For the 2019-20 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

(6) The County is authorized to reimburse the law enforcement agency for the costs of providing a salaried employee to the school or may hire and pay law enforcement personnel as per diem employees outside his or her normal work hours to serve as law enforcement personnel, as provided in this section.

**§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.**

The total allowance for other current expense and substitute employees is the sum of the following:

(1) For current expense:

(A) The non-salary related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

(B) The total square footage of school buildings in each county divided by each county's net enrollment for school aid purposes is used to calculate a state average square footage per student;

(C) Each county's net enrollment for school aid purposes multiplied by the state average expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this subdivision and multiplied by the state average square footage per student as calculated in paragraph (B) of this subdivision is that county's state average costs per square footage per student for operations and maintenance;

(D) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the allowance for current expense may be prorated among the participating counties by adjusting the net enrollment for school aid purposes utilized in the calculation by the number of students enrolled therein for each county; and

(E) Each county's allowance for current expense is 70.25% of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision: Provided, That effective July 1, 2019, each county's allowance for current expense is 71.25 percent of the county's state average costs per square footage per student for

operations and maintenance amount as calculated in paragraph (c) of this subdivision; plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in sections four and eight of this article. Distribution to the counties is made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with sections four and eight of this article; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties is made proportional to the number of service personnel authorized for the county in compliance with section five of this article; plus

(4) For academic materials, supplies, and equipment for use in instructional programs, \$200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 per professional instructional personnel employed at the school. "Faculty Senate" means a faculty senate created pursuant to §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of ~~said~~ §18-5A-5 of this code and may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

**§18-9A-10. Foundation allowance to improve instructional programs; instructional technology; ~~and~~ dual credit, advanced placement and international baccalaureate;**



**teacher and leader induction and professional growth; and allocations of growth in local share.**

(a) The total allowance to improve instructional programs and instructional technology is the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by §18-2E-5 of this code, an amount equal to ten percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by §18-2E-5 of this code and approved by the state board.

Up to fifty percent of this allocation for the improvement of instructional programs may be used to employ professional educators and service personnel in the county. Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1

of each year. On or before June 1, the state superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy.

The funds available for personnel under this subdivision may not be used to increase the total number of professional noninstructional personnel in the central office beyond four.

The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology, an amount equal to twenty percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional technology programs according to the county board's strategic technology learning plan.

This allocation for the improvement of instructional technology programs may also be used for the employment of technology system specialists essential for the technology systems of the schools of the county to be fully functional and readily available when needed by classroom teachers. The amount of this allocation used for the employment of technology system

specialists shall be included and justified in the county board's strategic technology learning plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) For the purpose of supporting county-level implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code, an amount equal to twenty percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties in a manner established by the State Board which takes into account the following factors:

(A) The number of full-time-equivalent teachers employed by the county with zero years of experience;

(B) The total number of full-time-equivalent teachers employed by the county with one year of experience, with two years of experience and with three years of experience;

(C) The number of full-time-equivalent principals, assistant principals and vocational administrators employed by the county who are in their first or second year of employment as a principal, assistant principal or vocational administrator;

(D) The number of full-time-equivalent principals, assistant principals and vocational administrators employed by the county who are in their first year in an assignment at a school with a programmatic level in which they have not previously served as a principal, assistant principal or vocational administrator; and

(E) Needs identified in the strategic plans for continuous improvement of schools and school systems including those identified through the performance evaluations of professional personnel.

Notwithstanding any provision of this subsection to the contrary, no county may receive an allocation for the purposes of this subdivision which is less than the county's total 2016-2017 allocation from the Teacher Mentor and Principals Mentorship appropriations to the Department of Education. Moneys allocated by this subdivision shall be used for implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code; plus

(5) For school year 2019-20, and thereafter, all of the increases in the local share amount for the next school year remaining after subtracting the amounts as otherwise provided for in this section, shall be allocated to each county board in the amount attributable to the growth in local share of the county: *Provided*, That no county shall receive less than \$150,000; plus

~~(5)~~ (6) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid by the Department of Education in accordance with the expenditure schedule approved by the state budget office into the School Building Capital Improvements Fund created by §18-9D-6 of this code and shall be used solely for the purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and (2), subsection (a) of this section, a county board may:

(1) Utilize up to twenty-five percent of the allocation for the improvement of instructional programs in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used

for any of these purposes shall be included and justified in the county and school strategic improvement plans or amendments thereto; and

(2) Utilize up to fifty percent of the allocation for improving instructional technology in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county board's strategic technology learning plan or amendments thereto.

~~(c) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount equal to \$24,000,000 from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of §18-9D-6 of this code to continue funding school facility construction and improvements.~~

~~(d) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School building Authority.~~

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-5. Powers and duties of state superintendent.**

(a) The State Superintendent of Schools shall organize, promote, administer, and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing, and maintaining special schools, classes, regular class programs, home-teaching, and visiting-teacher services for exceptional children.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating, and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, ~~formula~~ and formulas for distribution of available appropriated funds, reporting forms, and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification, and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy, or standard under this article or any county board rule, policy, or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~An~~ A separate appropriation shall be made to the Department of Education to be ~~distributed~~ disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 et seq. of this code to support children assist them with serving exceptional children with high cost/high acuity special needs that exceed the capacity of county to provide with funds available. Each county board and public charter school shall apply to the state superintendent ~~for receipt of~~ to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be ~~distributed~~ disbursed to county boards and public charter schools for this purpose before any of the state appropriation is ~~distributed~~ disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to ~~distributing~~ disbursing the funds to the county boards and public charter schools. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards ~~of education and public charter schools~~, their applications, annual reports, and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private

schools and correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

~~(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995~~

(b) Nothing contained in this section shall be construed to prevent any county board of ~~education~~ from establishing and maintaining special schools, classes, regular class programs, home-teaching, or visiting-teacher services for exceptional children out of funds available from local revenue.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 2. SCHOOL PERSONNEL.

#### §18A-2-8. Suspension and dismissal of school personnel by board; appeal.

(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 et seq. of this code, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to section twelve of this article. The charges shall be

stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 et seq. of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted.

### **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.**

#### **§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.**

(a) The state superintendent may, after ten days' notice and upon proper evidence, revoke the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 et seq. of this code; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board that employs the teacher,



nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to teach: *Provided, however,* That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent: *Provided further,* That a teacher convicted under §61-8D-5 or a finding of abuse under §49-1-1 et seq. of this code shall have his or her certificate or license automatically revoked.

(b) It shall be the duty of any county superintendent who knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with this section to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(c) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent has authority to recall the certificate and make such corrections as will conform to the requirements of law and the state board.

#### **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) For school year 2018–2019, ~~and continuing thereafter~~, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I 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: Provided, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II 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 I

Years Exp	4 <sup>th</sup> Class	3 <sup>rd</sup> Class	2 <sup>nd</sup> Class	A.B.	A.B. + 15	M.A.	M.A. + 15	M.A. + 30	M.A. + 45	Doc- torate
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218
3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499
5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,761	36,727	37,488	39,256	40,017	40,777	41,538	42,573
9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611
11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204

16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,776	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945
29	39,696	40,385	40,651	47,618	48,378	50,146	50,907	51,668	52,428	53,463
30	40,024	40,713	40,979	48,136	48,897	50,665	51,425	52,186	52,947	53,982
31	40,353	41,041	41,307	48,655	49,416	51,183	51,944	52,705	53,465	54,500
32	40,681	41,369	41,635	49,173	49,934	51,702	52,463	53,223	53,984	55,019
33	41,009	41,697	41,963	49,692	50,453	52,220	52,981	53,742	54,503	55,538
34	41,337	42,025	42,291	50,210	50,971	52,739	53,500	54,260	55,021	56,056
35	41,665	42,353	42,619	50,729	51,490	53,257	54,018	54,779	55,540	56,575

## STATE MINIMUM SALARY SCHEDULE II

<u>Years</u>	<u>4<sup>th</sup></u>	<u>3<sup>rd</sup></u>	<u>2<sup>nd</sup></u>	<u>A.B.</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>Doc-</u>
<u>Exp</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>		<u>+ 15</u>		<u>+ 15</u>	<u>+ 30</u>	<u>+ 45</u>	<u>torate</u>
0	<u>32,057</u>	<u>32,746</u>	<u>33,012</u>	<u>34,455</u>	<u>35,216</u>	<u>36,983</u>	<u>37,744</u>	<u>38,505</u>	<u>39,266</u>	<u>40,301</u>
1	<u>32,385</u>	<u>33,074</u>	<u>33,340</u>	<u>34,973</u>	<u>35,734</u>	<u>37,502</u>	<u>38,263</u>	<u>39,023</u>	<u>39,784</u>	<u>40,819</u>
2	<u>32,714</u>	<u>33,402</u>	<u>33,668</u>	<u>35,492</u>	<u>36,253</u>	<u>38,020</u>	<u>38,781</u>	<u>39,542</u>	<u>40,303</u>	<u>41,338</u>
3	<u>33,042</u>	<u>33,730</u>	<u>33,996</u>	<u>36,011</u>	<u>36,771</u>	<u>38,539</u>	<u>39,300</u>	<u>40,060</u>	<u>40,821</u>	<u>41,856</u>
4	<u>33,614</u>	<u>34,302</u>	<u>34,568</u>	<u>36,773</u>	<u>37,534</u>	<u>39,302</u>	<u>40,063</u>	<u>40,823</u>	<u>41,584</u>	<u>42,619</u>

<u>5</u>	<u>33.942</u>	<u>34.630</u>	<u>34.896</u>	<u>37.292</u>	<u>38.053</u>	<u>39.820</u>	<u>40.581</u>	<u>41.342</u>	<u>42.103</u>	<u>43.138</u>
<u>6</u>	<u>34.270</u>	<u>34.958</u>	<u>35.224</u>	<u>37.810</u>	<u>38.571</u>	<u>40.339</u>	<u>41.100</u>	<u>41.860</u>	<u>42.621</u>	<u>43.656</u>
<u>7</u>	<u>34.598</u>	<u>35.287</u>	<u>35.552</u>	<u>38.329</u>	<u>39.090</u>	<u>40.857</u>	<u>41.618</u>	<u>42.379</u>	<u>43.140</u>	<u>44.175</u>
<u>8</u>	<u>34.926</u>	<u>35.615</u>	<u>35.881</u>	<u>38.847</u>	<u>39.608</u>	<u>41.376</u>	<u>42.137</u>	<u>42.897</u>	<u>43.658</u>	<u>44.693</u>
<u>9</u>	<u>35.254</u>	<u>35.943</u>	<u>36.209</u>	<u>39.366</u>	<u>40.127</u>	<u>41.894</u>	<u>42.655</u>	<u>43.416</u>	<u>44.177</u>	<u>45.212</u>
<u>10</u>	<u>35.583</u>	<u>36.271</u>	<u>36.537</u>	<u>39.886</u>	<u>40.646</u>	<u>42.414</u>	<u>43.175</u>	<u>43.936</u>	<u>44.696</u>	<u>45.731</u>
<u>11</u>	<u>35.911</u>	<u>36.599</u>	<u>36.865</u>	<u>40.404</u>	<u>41.165</u>	<u>42.933</u>	<u>43.693</u>	<u>44.454</u>	<u>45.215</u>	<u>46.250</u>
<u>12</u>	<u>36.239</u>	<u>36.927</u>	<u>37.193</u>	<u>40.923</u>	<u>41.683</u>	<u>43.451</u>	<u>44.212</u>	<u>44.973</u>	<u>45.733</u>	<u>46.768</u>
<u>13</u>	<u>36.567</u>	<u>37.255</u>	<u>37.521</u>	<u>41.441</u>	<u>42.202</u>	<u>43.970</u>	<u>44.730</u>	<u>45.491</u>	<u>46.252</u>	<u>47.287</u>
<u>14</u>	<u>36.895</u>	<u>37.583</u>	<u>37.849</u>	<u>41.960</u>	<u>42.720</u>	<u>44.488</u>	<u>45.249</u>	<u>46.010</u>	<u>46.770</u>	<u>47.805</u>
<u>15</u>	<u>37.223</u>	<u>37.911</u>	<u>38.177</u>	<u>42.478</u>	<u>43.239</u>	<u>45.007</u>	<u>45.767</u>	<u>46.528</u>	<u>47.289</u>	<u>48.324</u>
<u>16</u>	<u>37.551</u>	<u>38.239</u>	<u>38.505</u>	<u>42.997</u>	<u>43.757</u>	<u>45.525</u>	<u>46.286</u>	<u>47.047</u>	<u>47.807</u>	<u>48.842</u>
<u>17</u>	<u>37.879</u>	<u>38.568</u>	<u>38.833</u>	<u>43.515</u>	<u>44.276</u>	<u>46.044</u>	<u>46.805</u>	<u>47.565</u>	<u>48.326</u>	<u>49.361</u>
<u>18</u>	<u>38.207</u>	<u>38.896</u>	<u>39.162</u>	<u>44.034</u>	<u>44.795</u>	<u>46.562</u>	<u>47.323</u>	<u>48.084</u>	<u>48.845</u>	<u>49.880</u>
<u>19</u>	<u>38.535</u>	<u>39.224</u>	<u>39.490</u>	<u>44.552</u>	<u>45.313</u>	<u>47.081</u>	<u>47.842</u>	<u>48.602</u>	<u>49.363</u>	<u>50.398</u>
<u>20</u>	<u>38.863</u>	<u>39.552</u>	<u>39.818</u>	<u>45.071</u>	<u>45.832</u>	<u>47.599</u>	<u>48.360</u>	<u>49.121</u>	<u>49.882</u>	<u>50.917</u>
<u>21</u>	<u>39.192</u>	<u>39.880</u>	<u>40.146</u>	<u>45.589</u>	<u>46.350</u>	<u>48.118</u>	<u>48.879</u>	<u>49.639</u>	<u>50.400</u>	<u>51.435</u>
<u>22</u>	<u>39.520</u>	<u>40.208</u>	<u>40.474</u>	<u>46.108</u>	<u>46.869</u>	<u>48.636</u>	<u>49.397</u>	<u>50.158</u>	<u>50.919</u>	<u>51.954</u>
<u>23</u>	<u>39.848</u>	<u>40.536</u>	<u>40.802</u>	<u>46.627</u>	<u>47.387</u>	<u>49.155</u>	<u>49.916</u>	<u>50.676</u>	<u>51.437</u>	<u>52.472</u>
<u>24</u>	<u>40.176</u>	<u>40.864</u>	<u>41.130</u>	<u>47.145</u>	<u>47.906</u>	<u>49.674</u>	<u>50.434</u>	<u>51.195</u>	<u>51.956</u>	<u>52.991</u>
<u>25</u>	<u>40.504</u>	<u>41.192</u>	<u>41.458</u>	<u>47.664</u>	<u>48.424</u>	<u>50.192</u>	<u>50.953</u>	<u>51.714</u>	<u>52.474</u>	<u>53.509</u>
<u>26</u>	<u>40.832</u>	<u>41.520</u>	<u>41.786</u>	<u>48.182</u>	<u>48.943</u>	<u>50.711</u>	<u>51.471</u>	<u>52.232</u>	<u>52.993</u>	<u>54.028</u>
<u>27</u>	<u>41.160</u>	<u>41.848</u>	<u>42.114</u>	<u>48.701</u>	<u>49.461</u>	<u>51.229</u>	<u>51.990</u>	<u>52.751</u>	<u>53.511</u>	<u>54.546</u>
<u>28</u>	<u>41.488</u>	<u>42.177</u>	<u>42.442</u>	<u>49.219</u>	<u>49.980</u>	<u>51.748</u>	<u>52.508</u>	<u>53.269</u>	<u>54.030</u>	<u>55.065</u>
<u>29</u>	<u>41.816</u>	<u>42.505</u>	<u>42.771</u>	<u>49.738</u>	<u>50.498</u>	<u>52.266</u>	<u>53.027</u>	<u>53.788</u>	<u>54.548</u>	<u>55.583</u>
<u>30</u>	<u>42.144</u>	<u>42.833</u>	<u>43.099</u>	<u>50.256</u>	<u>51.017</u>	<u>52.785</u>	<u>53.545</u>	<u>54.306</u>	<u>55.067</u>	<u>56.102</u>
<u>31</u>	<u>42.473</u>	<u>43.161</u>	<u>43.427</u>	<u>50.775</u>	<u>51.536</u>	<u>53.303</u>	<u>54.064</u>	<u>54.825</u>	<u>55.585</u>	<u>56.620</u>
<u>32</u>	<u>42.801</u>	<u>43.489</u>	<u>43.755</u>	<u>51.293</u>	<u>52.054</u>	<u>53.822</u>	<u>54.583</u>	<u>55.343</u>	<u>56.104</u>	<u>57.139</u>

<u>33</u>	<u>43,129</u>	<u>43,817</u>	<u>44,083</u>	<u>51,812</u>	<u>52,573</u>	<u>54,340</u>	<u>55,101</u>	<u>55,862</u>	<u>56,623</u>	<u>57,658</u>
<u>34</u>	<u>43,457</u>	<u>44,145</u>	<u>44,411</u>	<u>52,330</u>	<u>53,091</u>	<u>54,859</u>	<u>55,620</u>	<u>56,380</u>	<u>57,141</u>	<u>58,176</u>
<u>35</u>	<u>43,785</u>	<u>44,473</u>	<u>44,739</u>	<u>52,849</u>	<u>53,610</u>	<u>55,377</u>	<u>56,138</u>	<u>56,899</u>	<u>57,660</u>	<u>58,695</u>

(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) Effective July 1, 2020, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in §18A-4-2(b) of this code.

~~(d) (e) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, In accordance with §18A-4-5 of this code, each teacher shall be paid an equity the~~ 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-4-2d. Mathematics teacher incentive.**

(a) The Legislature recognizes that receiving quality math instruction is vital to a student’s post-secondary success and that that there is a shortage of certified math teachers to provide such instruction.

(b) To ensure that students are receiving the appropriate level of math instruction that will enable post-secondary success, the Department of Education shall develop or approve specialized mathematics courses and make the courses available to classroom teachers.

(c) Effective July 1, 2019, a classroom teacher who completes a specialized mathematics course established or approved pursuant to this section by May 1 of the fiscal year shall receive a one-time payment of \$2,000 from the Mathematics Incentive Program line item established for the Department of Education for this purpose, subject to appropriation by the Legislature. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are still insufficient to compensate all applicable teachers, each applicable teacher shall receive their proportionate share of the funding available for the year. This one-time payment may not be counted as part of the teacher's average final salary for the purpose of calculating retirement and no retirement contribution will be withheld from the payment.

(d) A classroom teacher who completes the mathematics enrichment course established or approved by the Department of Education after May 1 of the fiscal year shall receive the one-time payment described in subsection (a) of this section during the subsequent fiscal year, subject to appropriation by the Legislature.

(e) The one-time payment provided for in this section may only be paid to a classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students.

**§18A-4-5. Salary equity among the counties; state salary supplement.**

~~(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not~~

~~differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated using the average of the professional educator salary schedules, degree classifications B. A. through doctorate and the years of experience provided in the most recent state minimum salary schedule for teachers, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades A through H and the years of experience provided in the most recent state minimum pay scale pay grade for service personnel, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty five counties.~~

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, et seq. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county's specific characteristics, and ensures that all counties are provided equitable funding.

(b) The Legislature further finds that the purpose of the public school support program is not to deter counties from growing economically or from using county resources in a manner that best meets their specific educational needs and the desires of their citizens. To that end, counties must have the discretion and flexibility to use local county funds, not otherwise factored into the public school support program, to provide the best education possible to their students, including, but not limited to, providing salary supplements to teachers.

~~(b) (c) To meet the objective of salary equity among the counties, as defined in subsection (a) of this section, on and after July 1, 1984, subject Subject to available state appropriations and the conditions set forth herein, each teacher and school service~~



personnel shall receive an equity supplement amount as specified in sections two and eight-a, respectively, of this article in addition to the amount from the State Minimum Salary Schedules provided in those sections. State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with §18-9A-1 et seq. of this code. The amount allocated for this supplement shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this code.

~~(e) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-a, chapter eighteen of this code. The amount allocated for salary equity shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under sections four, five and eight, article nine a, chapter eighteen of this code. In the event the Department of Education determines that the objective of salary equity among the counties has not been met, it shall include in its budget request for the public school support plan for the next school year a request for funding sufficient to meet the objective of salary equity through an across-the-board increase in the equity supplement amount of the affected class of employees.~~

(d) Pursuant to this section, each teacher and service person shall receive from state funds the equity supplement amount indicated in subsection (c), ~~section two and subsection (f), section eight a of this article §18A 4 2 and §18A 4 8a of this code,~~ as applicable, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on January 1, 1984.

(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after January 1, 1984: *Provided,* That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may

reduce any salary supplement that was in effect on January 1, 1984, except as permitted by sections five-a and five-b of this article.

**§18A-4-5a. County salary supplements for teachers.**

(a) County boards of education in fixing the salaries of teachers shall use at least the state minimum salaries established under the provisions of this article. The board may establish salary schedules which shall be in excess of the state minimums fixed by this article, such county schedules to be uniform ~~throughout the county~~ as to the classification of training, experience, responsibility and other requirements subject to the following:

(1) Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools; ~~and they~~

(2) Counties may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day; ~~Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county: *Provided, That*~~

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship.

beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing ~~such~~ local salary schedules authorized in subsection (a) of this section, ~~no county shall~~ a county may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the state Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-7a. Employment, promotion, and transfer of professional personnel; Seniority qualifications.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure, or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level, or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) of said subsection shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with ~~the provisions of~~ §29A-3B-1 *et seq.* article three-b, chapter twenty-nine-a of this code to implement and interpret ~~the provisions of~~ this section. The rule may provide for a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: *Provided*, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of 133 days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and

shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(i) Guidance counselors and all other professional employees, as defined in section one, article one of this chapter, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this subsection, employment as principal, supervisor or central office administrator, as defined in §18A-1-1 of this code, shall be considered one area of employment.

(j) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. ~~A random selection system established by the employees and approved by the county board shall be used to determine the priority if two or more employees accumulate identical seniority: *Provided*, That when two or more principals have accumulated identical seniority.~~ If two or more employees with the same certification establish an identical seniority date as a result of initial employment as a regular teacher on or after July 1, 2019, the priority between these employees shall be determined by a random selection system established by the employees and approved by the county board. A board shall conduct the random selection within 30 days of the time the employees with the same certification establish an identical seniority date. All employees with an identical seniority date and the same certification shall participate in the random selection. As long as the affected employees hold the identical seniority date within a certification, the initial random selection conducted by the board shall be permanent for the duration of the employment of the employees by the board. All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections

(k) through (s), inclusive, of this section, the word “qualifications” means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent those qualifications are set forth in county board policy: *Provided, That in defining the word “qualifications” in its policy, the county board:*

(1) Shall consider including the criteria set forth in subsection (b) of this section;

(2) Shall consider other criteria set forth in subsection (b) of this section to the extent they are included in the county board policy only after considering personnel whose last performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code as applicable, is less than satisfactory; and

(3) May not include salary as one of the criteria in the definition.

(k) Whenever a county board is required to reduce the number of professional personnel in its employment, the employee ~~with the least amount of seniority~~ who is least qualified, as set forth in county board policy, shall be properly notified and released from employment pursuant to ~~the provisions of~~ §18A-2-2 of this code. ~~The provisions of this~~ This subsection ~~are~~ is subject to the following:

(1) Notwithstanding any provision of this code or county policy to the contrary, all reductions shall first be prioritized by employees with highest certifications and then the seniority of such employee: *Provided, That the employee’s last performance evaluation as provided in §18A-2-12 or §18A-3C-2 of this code, as applicable, was not less than satisfactory;*

~~(4)~~ (2) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

~~(2)~~ (3) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly

created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

~~(3)~~ (4) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both: ~~if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both~~ Provided, That the employee is the most qualified person for that position;

~~(4)~~ (5) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's ~~seniority is~~ qualifications are greater than the ~~seniority~~ qualifications of any other employee in one or more of those areas of certification, licensure, or both, the employee subject to release shall be employed in the professional position held by the employee ~~with the least seniority~~ who is least qualified in any of those areas of certification, licensure, or both; and

~~(5)~~ (6) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and ~~higher seniority~~ has greater qualifications, that person shall be placed in the position restored as a result of the reduction in force being rescinded.



(l) For the purpose of this article, all positions which meet the definition of “classroom teacher” as defined in section one, article one of this chapter shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board ~~shall~~ may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both, ~~and~~ along with the days in the period of employment.

(m) All professional personnel whose ~~seniority~~ lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county board during a reduction in workforce shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of ~~seniority~~ qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater ~~seniority~~ are qualified qualifications, apply for and accept the position.

(n) ~~Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both~~ The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to

notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.

(o) Openings in established, existing, or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may ~~post~~ repost an opening for a classroom teacher one additional time after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy may be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the

successful applicant to fill the vacancy shall be selected by the board within 30 working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed, or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein may prevent the county board of education from eliminating a position due to lack of need.

(p) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: *Provided*, That the employee and the county board mutually agree to the reassignment.

(q) Reductions in classroom teaching positions in elementary schools shall be determined pursuant to the considerations set forth in county board policy and processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of seniority qualifications with the least senior qualified classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least senior qualified employee in the school is not in that grade level, the senior least qualified classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the senior least qualified classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

(r) Any board failing to comply with ~~the provisions of~~ this article may be compelled to do so by mandamus and shall be liable

to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

~~(s) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.~~

~~(t)~~ (s) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(t) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

#### **§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 Schedule I 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: Provided, That 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 Schedule II 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 SCHEDULE I

Years Exp.	PAY GRADE							
	A	B	C	D	E	F	G	H
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402
10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435
11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500
13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533

14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330
38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE IIYears

<u>Exp.</u>	<u>PAY GRADE</u>							
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1.885</u>	<u>1.906</u>	<u>1.948</u>	<u>2.001</u>	<u>2.054</u>	<u>2.117</u>	<u>2.149</u>	<u>2.222</u>
<u>1</u>	<u>1.917</u>	<u>1.939</u>	<u>1.980</u>	<u>2.033</u>	<u>2.087</u>	<u>2.150</u>	<u>2.181</u>	<u>2.255</u>
<u>2</u>	<u>1.950</u>	<u>1.971</u>	<u>2.013</u>	<u>2.066</u>	<u>2.119</u>	<u>2.182</u>	<u>2.214</u>	<u>2.287</u>
<u>3</u>	<u>1.982</u>	<u>2.004</u>	<u>2.046</u>	<u>2.099</u>	<u>2.152</u>	<u>2.215</u>	<u>2.247</u>	<u>2.320</u>
<u>4</u>	<u>2.015</u>	<u>2.037</u>	<u>2.078</u>	<u>2.131</u>	<u>2.184</u>	<u>2.248</u>	<u>2.279</u>	<u>2.354</u>
<u>5</u>	<u>2.048</u>	<u>2.069</u>	<u>2.111</u>	<u>2.164</u>	<u>2.217</u>	<u>2.280</u>	<u>2.312</u>	<u>2.386</u>
<u>6</u>	<u>2.080</u>	<u>2.102</u>	<u>2.145</u>	<u>2.197</u>	<u>2.250</u>	<u>2.313</u>	<u>2.345</u>	<u>2.419</u>
<u>7</u>	<u>2.114</u>	<u>2.134</u>	<u>2.177</u>	<u>2.229</u>	<u>2.282</u>	<u>2.346</u>	<u>2.377</u>	<u>2.452</u>
<u>8</u>	<u>2.147</u>	<u>2.167</u>	<u>2.210</u>	<u>2.262</u>	<u>2.315</u>	<u>2.378</u>	<u>2.410</u>	<u>2.484</u>
<u>9</u>	<u>2.179</u>	<u>2.200</u>	<u>2.243</u>	<u>2.296</u>	<u>2.348</u>	<u>2.411</u>	<u>2.442</u>	<u>2.517</u>
<u>10</u>	<u>2.212</u>	<u>2.233</u>	<u>2.275</u>	<u>2.328</u>	<u>2.380</u>	<u>2.445</u>	<u>2.476</u>	<u>2.550</u>
<u>11</u>	<u>2.245</u>	<u>2.266</u>	<u>2.308</u>	<u>2.361</u>	<u>2.413</u>	<u>2.477</u>	<u>2.509</u>	<u>2.582</u>
<u>12</u>	<u>2.277</u>	<u>2.299</u>	<u>2.340</u>	<u>2.394</u>	<u>2.447</u>	<u>2.510</u>	<u>2.541</u>	<u>2.615</u>
<u>13</u>	<u>2.310</u>	<u>2.331</u>	<u>2.373</u>	<u>2.426</u>	<u>2.479</u>	<u>2.542</u>	<u>2.574</u>	<u>2.648</u>
<u>14</u>	<u>2.343</u>	<u>2.364</u>	<u>2.406</u>	<u>2.459</u>	<u>2.512</u>	<u>2.575</u>	<u>2.607</u>	<u>2.680</u>
<u>15</u>	<u>2.375</u>	<u>2.397</u>	<u>2.438</u>	<u>2.491</u>	<u>2.544</u>	<u>2.608</u>	<u>2.639</u>	<u>2.713</u>
<u>16</u>	<u>2.408</u>	<u>2.429</u>	<u>2.471</u>	<u>2.524</u>	<u>2.577</u>	<u>2.640</u>	<u>2.672</u>	<u>2.746</u>
<u>17</u>	<u>2.440</u>	<u>2.462</u>	<u>2.505</u>	<u>2.557</u>	<u>2.610</u>	<u>2.673</u>	<u>2.705</u>	<u>2.779</u>
<u>18</u>	<u>2.473</u>	<u>2.495</u>	<u>2.537</u>	<u>2.589</u>	<u>2.642</u>	<u>2.706</u>	<u>2.737</u>	<u>2.812</u>
<u>19</u>	<u>2.507</u>	<u>2.527</u>	<u>2.570</u>	<u>2.622</u>	<u>2.675</u>	<u>2.738</u>	<u>2.770</u>	<u>2.844</u>
<u>20</u>	<u>2.539</u>	<u>2.560</u>	<u>2.603</u>	<u>2.656</u>	<u>2.708</u>	<u>2.771</u>	<u>2.803</u>	<u>2.878</u>
<u>21</u>	<u>2.572</u>	<u>2.592</u>	<u>2.635</u>	<u>2.688</u>	<u>2.740</u>	<u>2.804</u>	<u>2.835</u>	<u>2.912</u>
<u>22</u>	<u>2.605</u>	<u>2.626</u>	<u>2.668</u>	<u>2.721</u>	<u>2.773</u>	<u>2.837</u>	<u>2.869</u>	<u>2.944</u>
<u>23</u>	<u>2.637</u>	<u>2.659</u>	<u>2.701</u>	<u>2.754</u>	<u>2.807</u>	<u>2.871</u>	<u>2.903</u>	<u>2.978</u>

<u>24</u>	<u>2.670</u>	<u>2.691</u>	<u>2.733</u>	<u>2.786</u>	<u>2.839</u>	<u>2.905</u>	<u>2.936</u>	<u>3.012</u>
<u>25</u>	<u>2.703</u>	<u>2.724</u>	<u>2.766</u>	<u>2.819</u>	<u>2.873</u>	<u>2.937</u>	<u>2.970</u>	<u>3.044</u>
<u>26</u>	<u>2.735</u>	<u>2.757</u>	<u>2.798</u>	<u>2.853</u>	<u>2.907</u>	<u>2.971</u>	<u>3.002</u>	<u>3.078</u>
<u>27</u>	<u>2.768</u>	<u>2.789</u>	<u>2.831</u>	<u>2.885</u>	<u>2.939</u>	<u>3.003</u>	<u>3.036</u>	<u>3.111</u>
<u>28</u>	<u>2.801</u>	<u>2.822</u>	<u>2.865</u>	<u>2.919</u>	<u>2.973</u>	<u>3.037</u>	<u>3.070</u>	<u>3.145</u>
<u>29</u>	<u>2.833</u>	<u>2.856</u>	<u>2.898</u>	<u>2.951</u>	<u>3.006</u>	<u>3.071</u>	<u>3.102</u>	<u>3.179</u>
<u>30</u>	<u>2.867</u>	<u>2.888</u>	<u>2.932</u>	<u>2.985</u>	<u>3.039</u>	<u>3.103</u>	<u>3.136</u>	<u>3.212</u>
<u>31</u>	<u>2.900</u>	<u>2.922</u>	<u>2.966</u>	<u>3.019</u>	<u>3.073</u>	<u>3.137</u>	<u>3.170</u>	<u>3.245</u>
<u>32</u>	<u>2.934</u>	<u>2.955</u>	<u>2.998</u>	<u>3.052</u>	<u>3.105</u>	<u>3.171</u>	<u>3.202</u>	<u>3.279</u>
<u>33</u>	<u>2.968</u>	<u>2.988</u>	<u>3.032</u>	<u>3.086</u>	<u>3.139</u>	<u>3.203</u>	<u>3.236</u>	<u>3.312</u>
<u>34</u>	<u>3.000</u>	<u>3.022</u>	<u>3.066</u>	<u>3.120</u>	<u>3.173</u>	<u>3.237</u>	<u>3.270</u>	<u>3.345</u>
<u>35</u>	<u>3.034</u>	<u>3.056</u>	<u>3.098</u>	<u>3.152</u>	<u>3.205</u>	<u>3.271</u>	<u>3.303</u>	<u>3.379</u>
<u>36</u>	<u>3.068</u>	<u>3.089</u>	<u>3.132</u>	<u>3.186</u>	<u>3.240</u>	<u>3.304</u>	<u>3.337</u>	<u>3.411</u>
<u>37</u>	<u>3.100</u>	<u>3.123</u>	<u>3.166</u>	<u>3.220</u>	<u>3.274</u>	<u>3.338</u>	<u>3.370</u>	<u>3.445</u>
<u>38</u>	<u>3.134</u>	<u>3.155</u>	<u>3.198</u>	<u>3.252</u>	<u>3.306</u>	<u>3.371</u>	<u>3.403</u>	<u>3.479</u>
<u>39</u>	<u>3.168</u>	<u>3.189</u>	<u>3.232</u>	<u>3.286</u>	<u>3.340</u>	<u>3.404</u>	<u>3.437</u>	<u>3.511</u>
<u>40</u>	<u>3.200</u>	<u>3.223</u>	<u>3.265</u>	<u>3.319</u>	<u>3.374</u>	<u>3.438</u>	<u>3.470</u>	<u>3.545</u>

(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~~ Each service person is paid ~~an equity~~ a 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.

**§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.**

(a) *Personal Leave.*

(1) ~~At the beginning of the employment term, any full-time employee of a county board is entitled annually to at least one and one-half days personal leave for each employment month or major fraction thereof in the first one-half of the employee's employment term. At the beginning of the second one-half of the employment term, any full-time employee of a county board is entitled to at least one and one-half days personal leave for each employment month or major fraction thereof in the second one-half of the employee's~~



employment term. Unused leave shall be accumulative without limitation and is transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

(2) A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, or other cause authorized or approved by the board, shall be paid the full salary from his or her regular budgeted salary appropriation during the period which the employee is absent, but not to exceed the total amount of leave to which the employee ~~is entitled.~~

(3) Each employee is permitted to use three days of leave annually without regard to the cause for the absence. Personal leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate. The employee shall give notice of leave without cause to the principal or immediate supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term, but not to exceed the total amount of leave to which the employee is entitled. ~~If an employee uses personal leave which the employee has not yet accumulated on a monthly basis is not yet entitled and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.~~

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which

the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) *Leave Banks.*

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to §5-16-13 of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

(ii) Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Is credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.

(3) The administration, subject to county board approval, may use its discretion as to the need for a substitute where limited absence may prevail, when an allowable absence does not:

(i) Directly affect the instruction of the students; or

(ii) Require a substitute employee because of the nature of the work and the duration of the cause for the absence.

(4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of substitutes for meeting the provisions of this section, the remainder shall be paid on or before August 31 from the budget of the next fiscal year.

(5) A county board may supplement the leave provisions in any manner it considers advisable in accordance with applicable rules of the state Board and the provisions of this chapter and chapter eighteen of this code.

(c) (1) Any full-time employee of a county board who has not utilized more than four personal leave days during the 200-day employment term shall receive a bonus of \$1,000 at the end of the school year.

(2) If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable full-time employees, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all applicable employees. This payment may not be counted as part of the final average salary for the purpose of calculating retirement.

(d) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

## **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

### **§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.**

(a) Schools shall be closed on Saturdays and on the following days which are designated as legal school holidays: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King's birthday, Memorial Day and West Virginia Day. Schools also shall be closed on any day on which a primary election, general election or special election is held throughout the state or school district and on any day appointed and set apart by the president or the Governor as a holiday of special observance by the people of the state.

(b) When any of the above designated holidays, except a special election, falls on Saturday, the schools shall be closed on

the preceding Friday. When any designated holiday falls on Sunday, the schools shall be closed on the following Monday.

(c) Special classes may be conducted on Saturdays for pupils and by teachers and service personnel. Saturday classes shall be conducted on a voluntary basis and teachers and service personnel shall be remunerated in ratio to the regularly contracted pay.

(d) Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control.

(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. A school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.

(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

**CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS  
AND STATE AID.**

**ARTICLE 4. ~~UNDERWOOD-SMITH TEACHER~~ TEACHING  
SCHOLARSHIP SCHOLARS PROGRAM.**

**§18C-4-1. ~~Scholarship and loan assistance fund~~ Underwood-  
Smith Teaching Scholars Program Fund created; purposes;  
funding.**

(a) It is the purpose of this article ~~and article four a of this chapter~~ to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers in the public schools in this state in mathematics, science, or special education at the ~~preschool~~ elementary, middle, or secondary levels. ~~in the public schools of this state. In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter~~ Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected ~~subject and~~ geographic areas of critical need: *Provided*, That nothing in this article shall prohibit any individual who has demonstrated outstanding academic abilities from eligibility for an award from the Underwood-Smith Teacher Scholarship and Loan Assistance Fund under the provisions of this article as they existed prior to reenactment of this article during the 2019 Regular Session of the Legislature to pursue a teaching career in the field of music education.

(b) In consultation with the State Board of Education and the State Superintendent of Schools the commission shall propose legislative rules in accordance with the provisions of ~~article three a, chapter twenty nine a of this code~~ §29A-3A-1, *et seq.* The rules shall provide for the administration of the Underwood-Smith ~~Teacher Scholarship and Loan Assistance programs~~ Teaching Scholars Program by the vice chancellor for administration in furtherance of the purposes of this article, ~~and article four a of this chapter~~ including, but not limited to, the following:

(1) Establishing scholarship selection criteria and procedures;

(2) Establishing criteria and procedures for identifying ~~subject areas~~ public schools or geographic areas in critical need of teachers;

(3) Requiring scholarship recipients to teach in a public school in this state in mathematics, science, or special education at the elementary, middle, or secondary level in a geographic area of critical need pursuant to the provisions of §18C-4-3 of this code;

~~Awarding loan assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching in an area of critical need;~~

(4) ~~Determining eligibility for loan assistance renewal;~~

(5) ~~Establishing procedures ensuring that loan assistance funds are paid directly to the proper lending entity; and~~

(6) (4) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

(7) (5) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars recipients receive additional academic support and training from mathematics, science, or special education mentors beginning with the freshman year and continuing through degree completion and the teaching obligation.

(d) There is created in the State Treasury a special revolving fund in the State Treasury to be known as The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-Smith Teaching Scholars Program Fund. The fund shall ~~to~~ be administered by the vice chancellor for administration solely for granting scholarships ~~and loan assistance~~

to teachers and prospective teachers in accordance with this article. ~~and article four a of this chapter.~~ Any moneys which may be appropriated by the Legislature, or received by the vice chancellor for administration from other sources, for the purposes of this article ~~and article four a of this chapter~~ shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the vice chancellor for administration by reason of default of a scholarship ~~or loan assistance~~ agreement under this article ~~or article four a of this chapter~~ also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

~~(d)~~ (e) The vice chancellor for administration may accept and expend any gift, grant, contribution, bequest, endowment, or other money for the purposes of this article ~~and article four a of this chapter~~ and shall make a reasonable effort to encourage external support for the scholarship ~~and loan assistance programs~~ program.

~~(e)~~ (f) For the purpose of encouraging support for the scholarship ~~and loan assistance programs~~ program from private sources, the vice chancellor for administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith ~~Teacher Scholarships and Loan Assistance Teaching Scholar~~ awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.

(g) In recognition of the high academic achievement necessary to receive an award under this article, each recipient shall be distinguished as an "Underwood-Smith Teaching Scholar" in a manner befitting the distinction as determined by the commission.

(h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 and 18C-4A-4 of this code:

(1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to satisfy the loan assistance agreement



pursuant to §18C-4A-3 of this code for any student who is fulfilling the requirements of an agreement on the effective date of this section;

(2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be eligible pursuant to the prior enactment of this article, for those students receiving such scholarship on the effective date of this section; and

(3) The terms, conditions, requirements, and agreements applicable to an Underwood-Smith teacher scholarship or loan assistance recipient prior to the effective date of this section shall continue in effect and are not altered by the reenactment of this section during the 2019 regular session of the Legislature.

#### **§18C-4-2. Selection criteria and procedures for awarding scholarships.**

(a) ~~The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter §18C-1-5 of this code to shall~~ select the recipients of Underwood-Smith ~~teacher scholarships~~ Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test with a cumulative grade point average of at least 3.25 on a 4.0 scale, and:

(A) For mathematics and science majors, met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; or

(B) For special education majors, met the college statistics readiness standards and college readiness English, reading, and writing standards as established by the commission;

(2) Agree to teach in the subject area of mathematics, science or special education in a public school in the state in a geographic area of critical need pursuant to the provisions of §18C-4-3 of this code; and

(3) In the case of a student pursuing a certificate in special education, have a cumulative grade point average of at least 3.25 on a 4.0 scale ~~possible scale of four after successfully completing two years of course work~~ at an approved institution of higher education in West Virginia; ~~are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or~~

(4) ~~Are graduate students at the master's degree level; who have graduated or are graduating in the top ten percent of their college graduating class.~~

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD), or work permit, issued by the United States Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the vice chancellor for administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in ~~section one of this article~~ §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These criteria and procedures

further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. ~~However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.~~

~~(d)~~ (e) In developing the selection criteria and procedures to be used by the Higher Education Student Financial Aid Advisory Board, the vice chancellor for administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other methods the vice chancellor for administration may determine to be appropriate to gather the information.

~~(e)~~ (f) The vice chancellor for administration shall make application forms for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics, ~~and~~ science and special education and who are under-represented in those fields.

### **§18C-4-3. Scholarship agreement.**

(a) Each recipient of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award shall enter into an agreement with the vice chancellor for administration under which the recipient shall meet the following conditions:

(1) Provide the commission with evidence of compliance with subsection (a), section four of this article;

(2) Beginning within a ~~ten year period~~ one year after completing the teacher education program for which the scholarship was awarded, ~~(A) teach full-time in the subject area of mathematics, science, or special education at the elementary, middle, or secondary level, or special education at the elementary, middle or secondary level, in a geographic area of critical need,~~ under contract with a county board of education in a public education program in the state, for a period of not fewer than ~~two~~ five consecutive years for each year the four academic years for which a scholarship was received. ~~or~~

~~(B) Teach full time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or~~

~~(C) Within the ten year period, while seeking and unable to secure a full time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:~~

~~(i) Teach full time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or~~

~~(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen b of this code or in a post secondary vocational education program in this state for a period of not fewer than two years for each year for which a scholarship was received; or~~

~~(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a~~

~~scholarship was received.~~ Any teaching time accrued during the required five-year period as a substitute teacher for a county board of education ~~under paragraph (A) or (B) of this subdivision in the subject area of mathematics, science, or special education at the elementary, middle, or secondary level, or special education at the elementary, middle or secondary level,~~ shall be credited pro rata in accordance with rules promulgated by the commission; or

(3) ~~Repay all or part of an Underwood-Smith teacher scholarship~~ Teaching Scholars award received under this article plus interest and, if applicable, reasonable collection fees in accordance with ~~subsection (c), section four of this article, except as provided in subsection (d) of section four of this article~~ §18C-4-4 of this code.

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:

(1) A description of the conditions and procedures to be established under ~~section four of this article~~ §18C-4-4 of this code; and

(2) A description of the appeals procedure required to be established under ~~section four of this article~~ §18C-4-4 of this code.

(c) ~~Individuals who were~~ The scholarship terms, conditions, requirements, and agreements applicable to awarded an Underwood-Smith teacher scholarship recipient prior to the effective date of this section may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997 shall continue in effect and are not altered by the reenactment of this section during the 2019 regular session of the Legislature.

#### **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

(a) The recipient of an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award is eligible for scholarship renewal only

during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a ~~course~~ program of study leading to teacher certification in mathematics, science, or special education at the ~~preschool~~ elementary, middle or secondary level; ~~in this state~~

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; ~~and~~

(4) Is maintaining a cumulative grade point average of at least 3.25 on a 4.0 scale; and

(5) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under ~~section three of this article~~ §18C-4-3 of this code shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under subsection (a), ~~section three of this article~~ §18C-4-3 of this code and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under ~~section three of this article~~ §18C-4-3 of this code during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

~~(3) Seeking and unable to find full time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;~~

(4) Satisfying the provisions of ~~additional~~ any repayment exemptions that may be prescribed by the commission by rule; or

~~(5)~~ (4) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the vice chancellor for administration may extend the time period for beginning or fulfilling the teaching obligation ~~to fifteen years~~ if extenuating circumstances exist.

**§18C-4-5. Amount and duration of scholarship; relation to other assistance.**

~~(a) Subject to subsection (b) of this section, each recipient of An Underwood-Smith teacher scholarship is eligible to receive assistance of up to \$5,000 for each academic year of higher education. Teaching Scholars award shall be used in preparation for becoming a preschool an elementary, middle or secondary mathematics, science, or special education teacher in the public schools of this state. The annual award is equal to the lesser of the cost of tuition or \$7,800 and an institution may not charge a scholar any tuition and mandatory fees above that covered by this award and other federal, state, and institutional scholarships and grants. No individual may receive scholarship assistance for more than~~

(b) An Underwood-Smith Teaching Scholars award is available for a maximum of four academic years for the completion of a bachelor's degree and two additional academic years for completion of a master's degree certification in special education that meets the requirements set by the State Board of Education.

~~(b) No individual shall~~

(c) An individual may not receive a scholarship award under this article which exceeds the cost of attendance at the institution the individual is attending. The cost of attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances for books, educational supplies, room and board and other expenses necessitated by individual circumstances, in accordance with the program guidelines. For the purposes of establishing an award amount, the ~~senior administrator~~ vice chancellor for administration shall take into account the amount of financial aid assistance the recipient has or will receive from all other sources. If the amount of the Underwood-Smith ~~teacher-scholarship assistance~~ Teaching Scholars award and the amount of assistance awards which the recipient has received from all other sources exceed the cost of attendance, the institution's financial aid officer, in consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner to the best advantage of the scholar.

(d) The amendments to this article during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this article existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

#### **ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.**

##### **§18C-4A-1. Selection criteria and procedures for loan assistance.**

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select recipients to receive Underwood-Smith Teacher Loan Assistance Awards.

(b) To be eligible for a loan award, a teacher shall agree to teach, or shall currently be teaching, a subject area of critical need or in a school or geographic area of the state identified as an area



of critical need. The advisory board shall make decisions regarding loan assistance pursuant to section one, article four of this chapter.

(c) In accordance with the rule promulgated pursuant to section one, article four of this chapter, the Vice Chancellor for Administration shall develop additional eligibility criteria and procedures for the administration of the loan program.

(d) The Vice Chancellor for Administration shall make available program application forms to public and private schools in the state via the website of the commission and the State Department of Education and in other locations convenient to potential applicants.

(e) The provisions of this section expire effective July 1, 2019.

#### **§18C-4A-2. Loan assistance agreement.**

(a) Before receiving an award, each eligible teacher shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with subsection (b), section four, article four of this chapter;

(2) Teach in a subject area of critical need or in a school or geographic area of critical need full time under contract with a county board for a period of two school years for each year for which loan assistance is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule.

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if

the recipient does not comply with the other terms of the agreement.

(b) Each loan agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by section five, article four of this chapter.

(c) The provisions of this section expire effective July 1, 2019.

**§18C-4A-3. Amount and duration of loan assistance; limits.**

(a) Each award recipient is eligible to receive loan assistance of up to \$3,000 annually, subject to limits set forth in subsection (b) of this section:

(1) If the recipient has taught for a full school year under contract with a county board in a subject area of critical need or in a school or geographic area of critical need; and

(2) If the recipient otherwise has complied with the terms of the agreement and with applicable provisions of this article and article four of this chapter, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of loan assistance only during periods when the recipient is under contract with a county board to teach in a subject area of critical need or in a school or geographic area of critical need and complies with other criteria and conditions established by rule, except that a teacher who is teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.

(c) A recipient may not receive loan assistance pursuant to this article which accumulates in excess of \$15,000.

(d) The provisions of this section expire effective July 1, 2019.

**CHAPTER 29. MISCELLANEOUS BOARDS AND  
OFFICERS.**

**ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, public charter schools electing to obtain coverage, and for employees and officers of the state ~~Department of Corrections~~ written notice of coverage to insureds.**

(a) In accordance with the provisions of this article, the state Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation: *Provided*, That the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members, and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of §29-12-5a(a) of this code shall cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building or correctional institution if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, school board member, or employee or officer of the ~~Department of Corrections~~ Division of Corrections and Rehabilitation was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the county board of education,

or Commissioner of the Division of Corrections and Rehabilitation, or in an official capacity as a county superintendent or as a school board member or as Commissioner of the Division of Corrections and Rehabilitation.

(c) Insurance coverage provided by the Board of Risk and Insurance Management pursuant to §29-12-5a(a) of this code shall be in an amount to be determined by the state Board of Risk and Insurance Management, but in no event less than ~~\$1 million~~ for each occurrence. In addition, each county board of education shall purchase, through the Board of Risk and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost of this excess coverage will be paid by the respective county boards of education. Any insurance purchased under this section shall be obtained from a company licensed to do business in this state.

(d) The insurance policy provided by the Board of Risk and Insurance Management pursuant to §29-12-5a(a) of this code shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well as a provision for the payment of the cost of attorney's fees in connection with any claim, demand, action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

(f) At least annually, beginning with the 2019-2020 school year, the county board shall provide written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of Risk and Insurance Management under this section. The written

notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.

(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §18-5G-1 et seq. of this code and have included in their approved charter application a determination to obtain insurance coverage from the Board of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section:

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers, supervisory and administrative staff members, and service personnel employed by a public charter school.;

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 §5-16-2 and §5-16-22 of the Code of the West Virginia, 1931, as amended; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend and reenact §18-5-16, §18-5-16a, §18-5-18b, §18-5-32 and §18-5-46 of said code; to amend and reenact §18-15B-14 of said code; to amend said code by adding thereto a new section, designated section §18-15B-15; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-11, §18-5G-12, §18-5G-13 and §18-5G-14; to amend and reenact §18-

7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9 and §18-9A-10 of said code; to amend and reenact §18-20-5 of said code; to amend and reenact §18A-2-8 of said code; to amend and reenact §18A-3-6 of said code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4 and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2 and §18C-4-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; permitting a public charter school to participate in the Public Employees Insurance Agency program; expiring tax rollback provisions; fixing regular levy rates of county boards of education and allowing increase of regular levy rates to the statutory maximum subject to voter approval at general election; establishing an educational expense tax credit; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; establishing open enrollment policy that may be adopted by county boards; applicability of eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission; increasing the percentage of time school counselors must spend in direct counseling; removing provisions as to period of employment for certain employees in county board central offices; including teacher recommendations in the considerations for student promotion; allowing funding for magnet schools; creating and funding a new Innovation Zone Fund to provide grants and other financial assistance to innovation zone designated schools; authorizing the establishment of pilot program for two public charter schools and limitations; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools and recruitment and retention plans; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; establishing

requirements for public charter school contracts and process for renewal, nonrenewal, and revocation of contracts, including required rules by State Board of Education; conduct prohibited of public charter schools; establishing funding for public charter school enrollment; allowing public charter schools access to public facilities; establishing reporting requirements; establishing charter school employee eligibility for the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; modifying provisions for addressing unexcused absences of student; defining law enforcement personnel; expanding social and emotional support services provided to students; expanding the definition of "professional student support personnel"; increasing the basic foundation allowance for professional student support personnel; increasing maximum enrollment allowed for Advance Career Education programs and requiring programs meet certain performance standards; providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program; modifying definition of "levies for general current expense purposes;" establishing school aid formula allowance for professional student support personnel at 4.70 positions per 1,000 students in net enrollment; establishing allowance to provide one law enforcement officer for each school in county; authorizing reimbursements of law enforcement agencies; increasing the county allowance for current expenses to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; providing additional allowance from increases in local share amounts to county boards; removing language relating to school improvement bonds and projects funding by the School Building Authority in accordance with comprehensive educational facility plan; providing appropriation disbursed to the public charter schools to serve needs of exceptional children; allowing the suspension or dismissal of school personnel by a county board upon a finding of abuse by the Department of Health and Human Resources or a misdemeanor with a rational nexus between the conduct and performance of the employee's job; imposing duty and authority to provide safe and secure environment and to take necessary step to ensure; increasing salaries for teachers; granting additional

experiences for purposes of pay scale to math teachers meeting specified requirements; providing additional pay for certain teachers providing math instruction who complete specialized course; modifying salary equity provisions; enhancing counties' ability to provide additional compensation to teachers; modifying factors for county board decisions, transfers, reassignments, reductions in the number of professional personnel, reductions in classroom teaching positions, and reductions in the workforce; establishment of seniority; establishing priority of criteria; requiring county board policy as to qualifications; revising requirements for notification and availability of lists; increasing compensation for service personnel; providing for accrual of personal leave at the end of each pay period; providing bonus for four or less absences; providing for holidays and school closings; modifying certain student financial aid resources available to students pursuing public school teaching careers; abolishing the Underwood-Smith Teacher Loan Assistance Program; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; modifying program purpose to target certain academic disciplines and emphasize the academic distinction of award recipients; modifying award eligibility, renewal, and service agreement criteria to reflect modified program purpose; requiring certain mentoring services be provided to award recipients; preserving eligibility and service agreement criteria for current award recipients; preserving current law provisions for eligibility for future awards to those who pursue a teaching career in field of music education; modifying the amount of an award and limiting tuition and fee charges for program recipients; providing for public charter school coverage by the Board of Risk and Insurance Management; and requiring annual written notice of BRIM insurance coverages by county boards to employee insureds.

Senator Rucker moved that the Senate amend the House of Delegates amendments to Engrossed Committee Substitute for Senate Bill 451.

The question being on the adoption of Senator Rucker's aforesaid motion, the same was put and prevailed.



Following points of inquiry to the President, with resultant responses thereto,

On motion of Senator Trump, the Senate reconsidered its action by which immediately hereinbefore it adopted Senator Rucker's motion that the Senate amend the House of Delegates amendments to Engrossed Committee Substitute for Senate Bill 451.

The vote thereon having been reconsidered,

Senator Unger arose to a point of order stating points of order raised by members should be dealt with immediately, even if a motion is on the floor.

Senator Unger next arose to a point of order stating the President should not have recognized another member while the Senator from Marion had the floor.

Which point of order, the President ruled not well taken.

Following several points of inquiry to the President, with resultant responses thereto,

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 451) were reported by the Clerk and considered simultaneously:

On page one, by striking out everything after the chapter heading and inserting in lieu thereof the following:

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-2. Definitions.**

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) "Agency" means the Public Employees Insurance Agency created by this article.

(2) “Director” means the Director of the Public Employees Insurance Agency created by this article.

(3) “Employee” means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term “employee” also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the Public Employees Insurance program; a county, city, or town in the State; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or ~~comprehensive mental—retardation~~ intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 et seq. of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the

benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an “employee” during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an “employee” during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an “employee” if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the Public Employees Insurance program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality

supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or ~~comprehensive mental retardation~~ intellectually and developmentally disabled facility established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided by the director. The term “employer” does not include within its meaning the National Guard.

(5) “Finance board” means the Public Employees Insurance Agency finance board created by this article.

(6) “Person” means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option or the group life insurance plan offered by the agency.

(8) “Retired employee” means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility

requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to 5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-22. Permissive participation; exemptions.**

The provisions of this article are not mandatory upon any employee or employer who is not an employee of or is not the State of West Virginia, its boards, agencies, commissions, departments,

institutions or spending units, or a county board of education, and nothing contained in this article ~~compels~~ any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article: Provided, That nothing in this section requires a public charter school to participate in the Public Employees Insurance Agency program.

Those employees enrolled in the insurance program authorized under the provisions of §21A-2B-1 *et seq.* of this code ~~are~~ not required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost of the premium may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but employee or employer may not remain enrolled in both programs.

~~Any plan established or administered by the Public Employees Insurance Agency pursuant to this article is exempt from the provisions of chapter thirty three of this code unless explicitly stated. Notwithstanding any provision of this code to the contrary, the Public Employees Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter thirty three of this code.~~

Employers, other than the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the insurance program to notify the director not later than 10 days after the vote.

Any employer, whether the employer participates in the Public Employees Insurance Agency insurance program as a group or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the Public Employees Insurance Agency insurance program as authorized by this article, shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer not mandated to participate in the plan is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years: *Provided, however*, That those retired employees of an employer not participating in the plan who retire on or after July 1, 2010, who have participated in the plan as active employees of the employer for less than five years are responsible for the entire premium cost for coverage and the Public Employees Insurance Agency shall bill for and collect the entire premium from the retired employees, unless the employer elects to pay the employer share of the premium. Each employer is hereby authorized and required to budget for and make such payments as are required by this section.

## CHAPTER 11. TAXATION.

### ARTICLE 8. LEVIES.

#### **§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.**

(a) Notwithstanding any other provision of law except §11-8-6f(c) of this code, where any annual appraisal, triennial appraisal, or general valuation of property would produce a statewide

aggregate assessment that would cause an increase of two percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than 102 percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five of this article for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred two percent: *Provided*, That the 102 percent figure shall be increased by the amount the boards of education's increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by 100; the resulting number is the Class I regular levy rate, stated as cents-per-100 of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this



section. Special levies shall not be included in any calculations under this section.

(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.

(c) Beginning with the 2020 fiscal year and the 2019 tax year, §11-8-6f(a) and (b) of this code shall expire and the regular levy rates for the county boards of education shall be the following: (1) For Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per \$100; and (3) for Class III and Class IV property, 77.6 cents per \$100: *Provided*, That county boards of education may increase their regular levy rates through a majority vote of their members up to the sum of the levy rates set forth in subdivisions (1), (2), and (3), section six-c of this article for each class of property, which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class II property, 45.9 cents per \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100: *Provided*, *however*, That prior to any regular levy rate increase, such increase must be approved by a majority vote of the voters of the county.

~~(e)~~ (d) The State Tax Commissioner shall report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability by March 1 of each year on the progress of assessors in each county in assessing properties at the Constitutionally required 60 percent of market value and the effects of increasing the limit on the increase in total property tax revenues set forth in this section to two percent.

~~(e)~~ (e) *Growth County School Facilities Act. — Legislative findings.* —

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers, and administrators; however, some counties of this state have experienced significant increases in enrollment due to significant growth in those counties; that those counties experiencing significant increases do not have adequate facilities

to accommodate students, teachers, and administrators. Therefore, the Legislature finds that county boards of education in those high-growth counties should have the authority to designate revenues generated from the application of the regular school board levy due to new construction or improvements placed in a Growth County School Facilities Act Fund be used for school facilities in those counties to promote the best interests of this state's students.

(1) For the purposes of this subsection, "growth county" means any county that has experienced an increase in second month net enrollment of 50 or more during any three of the last five years, as determined by the state Department of Education.

(2) The provisions of this subsection shall only apply to any growth county, as defined in subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use the provisions of this subsection.

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The statewide regular school board levy rate as established by the Legislature shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth County School Facilities Act Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the School Building Authority or for the payment of bonded indebtedness incurred for school facilities. For any growth county choosing to use the provisions of this subsection, estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as

local funds for purposes of the computation of local share under the provisions of §18-9A-11 of this code.

(e) (f) This section, as amended during the legislative session in the year 2004, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

## **ARTICLE 21. PERSONAL INCOME TAX.**

### **§11-21-25. Education expenses tax credits.**

(a) Credit allowed. — For those tax years beginning on or after January 1, 2019, there is allowed a nonrefundable credit for expenses incurred for the purchase of supplementary education materials or professional development costs incurred by a classroom teacher, classroom aide, autism mentor, braille specialist, early childhood classroom assistant, paraprofessional, sign language assistant teacher, educational sign language interpreter, or sign support specialist employed by a public or private school.

(b) Amount of credit. — A person eligible for the credit pursuant to subsection (a) of this section may claim a tax credit not to exceed \$250.

(c) Qualifying educational expenses. — Qualifying expenses include costs relating to computer equipment including education-related software and services, textbooks, workbooks, curricula and other written or supplementary materials used for curricular, cocurricular, or extra-curricular instruction and expenses for curricular or cocurricular activities.

(d) Unused credit. — If any credit remains after application of §11-21-25(c) of this code, that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any unused portion of any annual credit allowance.

**CHAPTER 18. EDUCATION.****ARTICLE 5. COUNTY BOARD OF EDUCATION.****§18-5-16. Student transfers; definitions; ~~legislative findings~~; appeals; calculating net enrollment; fees for transfer.**

(a) ~~County districts and school attendance.~~ — ~~Establishment of attendance zones within counties.~~ — The county board ~~may divide~~ shall establish attendance zones within the county ~~into such districts as are necessary to determine to designate~~ the schools ~~that its resident students of its county shall attend.~~ Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board ~~shall be~~ is final.

~~(b) Transfers between counties; legislative findings —~~

~~(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.~~

~~(2) Legislative findings. — Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.~~

~~Therefore the Legislature makes the following findings:~~

~~(A) County lines may impede the effective and efficient delivery of education services;~~

~~(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;~~

~~(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and~~

~~(D) Where counties cannot agree, it is necessary to establish a process to determine when transfers are appropriate.~~

~~(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.~~

~~(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:~~

~~(i) Travel time for the student;~~

~~(ii) Impact on levies or bonds;~~

~~(iii) Other financial impact on the county of residence; and~~

~~(iv) Such other factors as the state superintendent may determine.~~

~~(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.~~

~~(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.~~

~~(D) If a student is transferred on either a full-time or a part-time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.~~

~~(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:~~

~~(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro-rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine a [ §§ 18-9A-1 et seq. ] of this chapter; and~~

~~(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.~~

~~(c) *Transfers between high schools.* — In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

~~(b) *Definitions.* — For the purposes of this section, unless a different meaning clearly appears from the context:~~

~~“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.~~

~~“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a~~

mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) Enrollment policies. – County boards may establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed tenth grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

(E) Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

(2) A county must comply with all enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(6)).

(3) The county board for the county educating the nonresident student may provide an adequate means of transportation to nonresident students when students have complied with the procedure for obtaining authorization to attend school outside their county of residence, subject to the following:

(A) County boards of education are not required to uniformly provide nonresident student transportation, and may consider whether a nonresident student meets the eligibility criteria for free or reduced price lunches and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. §1758); and

(B) The county board for the county educating the nonresident student shall provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student with disabilities has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

(d) Appeal. – The state board of education shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to accept the transfer of the student. If during the appeal process, the State Superintendent discovers that the education and the welfare of the student could be enhanced, the State Superintendent may direct that the student may be permitted to attend a school in the receiving county.

(e) Net enrollment. – For purposes of net enrollment as defined in §18-9A-2 of this code, whenever a student is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the student is transferred shall include the student in its net enrollment: *Provided*, That if, after transferring to another county, a student chooses to return to a school in his or her county of residence after the second month of any school year, the following applies:

(1) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on



a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in §18-9A-1 et seq. of this code; and

(2) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

~~(e) *Transfers between high schools.* — In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

~~(f) *Transfers between states.* — Transfer of students from this state to another state shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the transferring receiving county and the authorities of the school to or district from which the transfer is made.~~

~~(g) No parent, guardian, or person acting as parent or guardian shall be is required to pay for the transfer of a student or for the tuition of the student after the transfer when such the transfer is carried out under the terms of this section.~~

(h) Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission.

(i) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

(a) The provisions of this section expire effective July 1, 2019: *Provided, That any agreements made pursuant to this section prior to July 1, 2019, shall remain in effect.*

(b) Whenever, in the opinion of the board of Education of any county, the education and welfare of a pupil will be enhanced, the board of Education of such county shall have the authority to transfer any such pupil or pupils on a part-time or full-time basis from one school district to another school district within the state: *Provided, That the boards of education of both the transferor and the transferee districts agree to the same by official action of both boards as reflected in the minutes of their respective meetings.*

(c) Any pupil attending a school in a district of this state adjacent to the district of residence during the school year one thousand nine hundred eighty-four—eighty-five, is authorized to continue such attendance in the adjacent district, and, upon written request therefor by the parent or guardian, any person who is entitled to attend the public schools of this state and who resides in the same household and is a member of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor and transferee school districts shall effectuate any transfer herein authorized in accordance with the provisions of this section.

(d) Whenever a pupil is transferred from one school district to another district on a full-time or part-time basis, the board of Education of the school district in which the pupil is a bona fide resident shall pay to the board of Education of the school district to which the pupil is transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall not exceed the difference between the state aid per pupil received by the county to which the pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

(e) For purposes of net enrollment as defined in section two, article nine-a of this chapter: (1) Whenever a pupil is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the pupil is transferred shall include such pupil in its net enrollment;

and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

**§18-5-18b. School counselors in public schools.**

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18-3-1 *et seq.* of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American school counselor association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel shall spend at least ~~seventy five~~ eighty percent of work time in a direct counseling relationship with pupils, and shall devote no more

than ~~one-fourth~~ twenty percent of the work day to administrative activities: *Provided*, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

**§18-5-45a. Further expressions of legislative intent with respect to school calendar; applicability to time lost due to work stoppage or strike; prohibiting extracurricular activities on canceled instructional days.**

(a) Section 18-5-45 of this code is designed to define the school term both for employees and for instruction. The employment term consists of at least 200 days as provided in that section and, within the employment term, an instructional term for students must consist of at least 180 separate instructional days. Section 18-5-45 of this code also defines the minimum length of an instructional day, requires county boards to develop a policy for additional minutes of instruction to recover time lost due to late arrivals and early dismissals, and also allows schools with an instructional day in excess of certain minimums to apply this equivalent instructional time to cancel time lost due to necessary closures and other purposes designed to improve instruction. The use of equivalent time gained to cancel days lost and the use of alternative methods to deliver instruction on canceled days as defined in §18-5-45 of this code constitute instructional days for the purposes of meeting both the 200-day minimum employment term and the 180-day minimum separate instructional day requirements. The Legislature intended with the enactment of these provisions regarding equivalent instructional time and alternative instructional delivery to help improve instruction and lessen the disruption to the planned school calendar if rescheduling and adding instructional days became necessary to make up lost days due to closures pursuant to §18-4-10(5) of this code when conditions are detrimental to the health, safety, or welfare of pupils. The Legislature did not intend with the enactment of these provisions to permit a reduction of the instructional term for students or of the employment term for personnel when the conditions causing the closure of the school are a concerted work stoppage or strike by the employees. The

provisions of §18-5-45 of this code permitting accrued or equivalent instructional time to cancel days lost, and the delivery of instruction through alternative methods, do not apply to and may not be used to cancel days lost due to a concerted work stoppage or strike.

(b) If an originally scheduled instructional day is canceled for any reason, the school for which the day was canceled may not participate in any extracurricular activities during any part of that same day.

**§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating to promotion.**

(a) No teacher may be required by a principal or any other person to change a student's grade on either an individual assignment or a report card unless there is clear and convincing evidence that there was a mathematical error in calculating the student's grade.

(b) The teacher's recommendation relating to whether or not a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

**§18-5-48. Safety and security measures for school facilities.**

(a) Each county board of education and multi-county vocational center shall annually assess the safety and security of each of the school facilities within its boundaries. Safety and security measures of each facility shall be upgraded when necessary to ensure, to the best of the county board's ability, the safety of the students within each facility. Each county board of education shall report annually the safety and security measures it has put in place, including upgrades thereto, to the state department of education. Annually, the state department of education shall compile the information from the county boards of education, and report the information to the legislative oversight commission on education accountability.

(b) As used in this section, "safety and security measures" means action taken by a county board of education or multi-county

vocational center that improves the security of a school facility and the safety of the students within such facility, including but not limited to, hiring a school resource officer, installing weapon detection systems, upgrading facility doors or windows, etc.

(c) There is hereby created in the State Treasury a special revenue fund to be known as the "Safe Schools Fund." The fund shall consist of all moneys received from legislative appropriations and other sources to further the purpose of this section: *Provided:* That annually, the West Virginia Department of Education shall request an appropriation based on the requests of the county boards of education. Subject to legislative appropriation, the funds appropriated annually to the School Safety Fund shall be distributed to the county boards of education and multi-county vocational centers, with the funding amount per school determined by dividing the total annual appropriation by the total number of public schools throughout the state. All monies distributed from this fund shall be used to support the purpose and intent of this section. Any moneys remaining in the fund at the close of the fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state's consolidated investment fund and any and all interest shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this article.

## **ARTICLE 5G. PUBLIC CHARTER SCHOOLS.**

### **§18-5G-1. Legislative purpose and intent.**

The West Virginia Legislature hereby authorizes the establishment of public charter schools to benefit students, parents, teachers, and community members by creating new, innovative, and more flexible ways of educating all children within the public school system under the general supervision of the state board and by advancing a renewed commitment to the mission, goals, and diversity of public education. The purposes of the public charter school initiative are to:

(a) Improve student learning by creating more diverse public schools with high standards for student performance;

(b) Provide innovative educational methods and practices through programs that engage students in the learning process, thus resulting in higher student achievement;

(c) Enable schools to establish a distinctive school curriculum, a specialized academic theme, or method of instruction; and

(d) Allow schools enhanced freedom and flexibility in exchange for exceptional levels of results-driven accountability.

### **§18-5G-2. Definitions.**

The following words used in this article and any proceedings pursuant thereto have the following meanings unless the context clearly indicates a different meaning:

(1) “Applicant” means any group or entity with 501(c)(3) tax-exempt status or that has submitted an application for 501(c)(3) tax-exempt status that develops and submits an application for a public charter school to an authorizer;

(2) “Authorizer” means the entity authorized under this article to review and approve or deny charter applications, enter into charter contracts with applicants, oversee public charter schools, and determine whether to renew, not renew, or revoke charter contracts. Authorizers include:

(A) A county school board in the county in which a public charter school is proposed to be located;

(B) Two or more county school boards representing the several counties which a public charter school is proposed to serve;

(C) Any accredited West Virginia public institution of higher education; or

(D) The West Virginia Public Charter School Commission established pursuant to §18-5G-9 of this code: *Provided*, That the commission may authorize public charter schools only upon the request by a county board that the Commission assume the role of

authorizer or in school districts that do not meet academic standards as determined pursuant to state board rule;

(3) “Charter application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;

(4) “Charter contract” or “contract” means a fixed-term, renewable contract between a public charter school’s governing board and an authorizer that identifies the roles, powers, responsibilities, operational duties, accountability, and performance expectations for each party to the contract, consistent with the requirements of this article;

(5) “Commission” means the West Virginia Public Charter School Commission established pursuant to §18-5G-9 of this code;

(6) “Conversion public charter school” means a public charter school that existed as a noncharter public school before becoming a public charter school;

(7) “County board” means a county board of education;

(8) “Education service provider” means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;

(9) “Governing board” means the independent board of directors for a public charter school that is a party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the charter application;

(10) “Noncharter public school” means a public school other than a public charter school established pursuant to this article;

(11) “Parent” means a parent, guardian, or other person or entity having legal custody over a child;



(12) “Public charter school” means a public school established pursuant to this article that:

(A) Is a public corporate body, exercising public power through its governing board, including the power in name to contract and be contracted with, sue and be sued, and adopt bylaws not inconsistent with this article;

(B) Has autonomy over decisions relating to finance, personnel, scheduling, curriculum, and instruction consistent with this article and its charter contract;

(C) Is considered part of the county school district in which the public charter school is located;

(D) Is established and operating under the terms of a charter contract between the public charter school’s governing board and its authorizer;

(E) Is a public school to which parents choose to send their children;

(F) Is a public school that admits students on the basis of a random and open lottery if more students apply for admission than can be accommodated, pursuant to and subject to §18-5G-4 of this code;

(G) Offers a comprehensive instructional program that meets or exceeds the student performance standards adopted pursuant to §18-2E-5 of this code;

(H) Operates under the oversight of its authorizer in accordance with its charter contract; and

(I) Meets all requirements for being eligible for federal funds as a charter school.

(13) “State board” means the West Virginia Board of Education; and

(14) “Student” means any person that is eligible for attendance in a public school in West Virginia.

**§18-5G-3. Authorization for the establishment of public charter schools; governing board.**

(a) A public charter school shall be part of the state's system of public education but shall be exempt from all statutes and administrative regulations applicable to the state board, a county board, or a school unless expressly stated otherwise in this article such as the requirement in this article for charter school participation in the state summative assessment, subject to the following:

(1) Public charter schools shall adhere to the same immunization, civil rights, and disability rights requirements applicable to noncharter public schools; and

(2) Nothing in this article prohibits a public charter school from complying with any statute, state board policy, or county board policy applicable to noncharter public schools.

(b) A public charter school shall not have entrance requirements or charge tuition or fees: *Provided*, That a public charter school may require the payment of fees on the same basis and to the same extent as noncharter public schools.

(c) A public charter school shall not have the power to levy taxes.

(d) A public charter school shall:

(1) Be governed by a governing board;

(2) Provide instructional time that is at least equal to the number of days or their equivalent required by §18-5-45 of this code;

(3) Require criminal background checks for staff and volunteers, including members of its governing board, as required of all noncharter public school employees and volunteers;

(4) Prohibit contractors and service providers or their employees from making direct, unaccompanied contact with

students or accessing school grounds unaccompanied when students are present if it cannot be verified that the contractors, service providers, or their employees have not been previously convicted of a qualifying offense pursuant to §18-5-15c of this code;

(5) Ensure student participation in the required state summative assessment pursuant to §18-2E-5 of this code;

(6) Adhere to generally accepted accounting principles and adhere to the same financial audits, audit procedures, and audit requirements applicable to noncharter public schools;

(7) Utilize the same system for reporting student information data and financial data as is utilized by noncharter public schools;

(8) Comply with the Freedom of Information Act as set forth in §29B-1-1 *et seq.* of this code;

(9) Report data using the West Virginia Education Information System or successor data reporting system that noncharter public schools use;

(10) Operate under the oversight of its authorizer in accordance with its charter contract;

(11) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(12) Enroll students in the public charter school pursuant to §18-5G-4 of this code;

(13) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board;

(14) Serve one or more of grades pre-K through 12 and limit admission to students within the grade levels served; and

(15) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(e) A public charter school may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools; and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(f) *Public charter school governing board.* —

(1) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members.

(2) The governing board shall consist of at least:

(A) Two parents of students attending the public charter school operating under the governing board; and

(B) One member of the county board over the school district in which the public charter school is located if the county board elects to appoint a member: *Provided*, That refusal by any county board members to sit on the governing board shall not preclude the establishment of a charter school.

(3) Members of the governing board shall:

(A) Not be an employee of the public charter school administered by the governing board;

(B) Not be an employee of an education service provider that provides services to the public charter school; and

(C) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school.

(4) Members of the governing board shall collectively possess expertise in leadership, curriculum and instruction, law, and finance.

(5) A member of the public charter school governing board shall be considered an officer of a school district under the provisions of §6-6-7 of this code, and shall be removed from office under the provisions of that section.

(6) The governing board shall be responsible for the operation of its public charter school, including, but not limited to, preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(7) The governing board shall comply with open governmental proceedings requirements set forth in §6-9A-1 *et seq.* of this code.

**§18-5G-4. Enrollment in a public charter school; recruitment and retention plans.**

(a) A public charter school may enroll any student residing in the state.

(b) If capacity is insufficient to enroll all students who wish to attend any specific grade level at a public charter school, the school shall select students through a randomized and transparent lottery: *Provided*, That the state board shall promulgate a rule to guide student application and lottery procedures for public charter schools.

(c) Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. An enrollment preference for returning students shall exclude those students from entering into a lottery, as identified in §18-5G-4(c) of this code.

(d) A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and at-risk students.

(e) A public charter school may give enrollment preference to children of a public charter school's governing board members and

full-time employees, as long as they constitute no more than 10 percent of the school's total student population.

(f) Every charter school shall submit a recruitment and retention plan annually to its authorizer. The plan shall list deliberate, specific strategies the school will use to attract, enroll, and retain a student population that includes students who are, to the extent applicable:

(1) Limited English proficient;

(2) Special education;

(3) Low income;

(4) Below proficiency on the comprehensive statewide student assessment;

(5) At risk of dropping out of school;

(6) Have dropped out of school; or

(7) Any others who should be targeted to eliminate achievement gaps.

(g) A noncharter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.

#### **§18-5G-5. Application to establish public charter school.**

(a) To establish a new public charter school or to convert an existing noncharter public school to a public charter school, an applicant shall submit a charter application to an authorizer, subject to the following:

(1) No more than seven charter schools may be authorized statewide, and no more than two charter schools may be newly authorized statewide per year. Charter authorizers shall accept and document the date and time of receipt of all charter applications. The state board shall promulgate rules pursuant to §29A-3B-1 *et*.

seq. of this code to implement processes for notifying potential applicants and authorizers regarding the number of charter schools authorized and the number of applicants seeking authorization;

(2) At least one of the seven public charter schools shall primarily serve an at-risk student population; and

(3) Only a county board may authorize the conversion of an existing noncharter public school to a public charter school except that the West Virginia Public Charter School Commission may authorize the conversion of public charter schools in school districts that do not meet academic standards as determined pursuant to state board rule.

(b) The application shall contain, at a minimum, the following information:

(1) A mission statement and a vision statement for the public charter school, including specialized academic focus, if any, to be promoted and advanced through the establishment of the public charter school;

(2) A detailed description of the public charter school's proposed program;

(3) The student achievement goals for the public charter school's program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals;

(4) The school's plan for using data derived from student evaluations and assessments, including the statewide summative assessment, to drive instruction and promote continued school improvement;

(5) An explanation of how the school's proposed program is likely to improve the achievement of traditionally underperforming students in the local school district;

(6) The proposed governance structure of the school, including a list of members of the initial governing board, a draft of bylaws



that include the description of the qualifications, terms, and methods of appointment or election of governing board members, and the organizational structure of the school that clearly presents lines of authority and reporting between the governing board, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(7) Plans and timelines for student enrollment, including policies and procedures for conducting transparent and random admission lotteries that are open to the public, and that are consistent with this article;

(8) A proposed five-year budget, including the start-up year and projections for four additional years with clearly stated assumptions;

(9) Proposed fiscal and internal control policies for the public charter school;

(10) Acknowledgement that the public charter school will participate in the state's accountability system;

(11) A proposed handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;

(12) An explanation of proposed student discipline procedures, including disciplinary procedures for students with disabilities, which shall be consistent with the requirements of due process and with state and federal laws and regulations governing the placement of students with disabilities;

(13) A description of the facilities to be used by the public charter school, including the location of the school and how the facility supports the implementation of the school's program. The school shall obtain all required occupation and operation certificates and licenses prior to the first instructional day for students;

(14) The proposed ages and grade levels to be served by the public charter school, including the planned minimum and maximum enrollment per grade per year;

(15) The school calendar and school day schedule, which shall meet the requirements of §18-5-45 of this code;

(16) Types and amounts of insurance coverage to be obtained by the public charter school, which:

(A) Shall include adequate insurance for liability, property loss, and the personal injury of students comparable to noncharter public schools within the local school district operated by the county board; and

(B) May include coverage from the Board of Risk and Insurance Management pursuant to §29-12-5a of this code;

(17) A description of the food services to be provided to students attending the school;

(18) Process and procedures to be followed in the case of the closure or dissolution of the public charter school, including provisions for the transfer of students and student records to the appropriate local school district and an assurance and agreement to payment of net assets or equity, after payment of debts as specified in §18-5G-8 of this code;

(19) A code of ethics for the school setting forth the standards of conduct expected of its governing board, officers, and employees;

(20) The public charter school's plan for successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including, but not limited to, the school's plan for compliance with all applicable federal and state laws and regulations;

(21) A description of cocurricular and extracurricular programs to be offered by the public charter school and how they will be funded and delivered;

(22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan; and

(24) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

**§18-5G-6. Authorizer duties and responsibilities.**

(a) An authorizer shall:

(1) Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;

(2) Approve new charter applications that meet the requirements of this section and §18-5G-5 of this code, demonstrate the ability to operate the school in an educationally and fiscally sound manner, and are likely to improve student achievement through the program detailed in the charter application;

(3) Decline to approve charter applications that fail to meet the requirements of §18-5G-5 of this code;

(4) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(5) Monitor the performance and compliance of public charter schools according to the terms of the charter contract;

(6) Determine whether each charter contract it authorizes merits renewal or revocation; and

(7) Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:

(A) Organizational capacity and infrastructure;

(B) Evaluating applications;

(C) Ongoing public charter school oversight and evaluation; and

(D) Charter approval, renewal, and revocation decision-making.

(b) After an applicant submits a written application to establish a public charter school, the authorizer shall:

(1) Complete a thorough review process;

(2) Conduct an in-person interview with the applicant;

(3) Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;

(4) Provide a detailed analysis of the application to the applicant or applicants;

(5) Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and

(6) Approve or deny a charter application based on established objective criteria or request additional information.

(c) In deciding to approve a charter application, the authorizer shall:

(1) Approve charter applications only to applicants that possess competence in all elements of the application requirements identified in this section and §18-5G-5 of this code;

(2) Base decisions on documented evidence collected through the application review process; and

(3) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.

(d) No later than 90 days following the filing of the charter application, the authorizer shall approve or deny the charter application. The authorizer shall provide its decision in writing,

including an explanation stating the reasons for approval or denial of its decision during an open meeting. Any failure to act on a charter application within the time specified shall be deemed an approval by the authorizer.

(e) An authorizer's charter application approval shall be submitted to the West Virginia Department of Education.

(f) No public charter school may begin operations prior to July 1, 2019.

(g) Notwithstanding any provision of this code to the contrary, no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school. Neither the county board of education nor the State of West Virginia shall be liable for the debts or financial obligations of a public charter school or any person or entity that operates a public charter school.

(h) To cover authorizer costs for overseeing public charter schools in accordance with this Act, each public charter school shall remit to its respective authorizer an oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of the per student operational funding allocated to each public charter school under §18-5G-11 of this code, not to exceed one percent of each public charter school's per-student funding in a single school year. The state board shall establish a statewide formula for authorizer funding, which shall apply uniformly to every authorizer in the state. The state board may establish a sliding scale for authorizing funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of schools have been authorized or after a certain number of students are enrolled in the authorizer's public charter schools. The state board shall establish a cap on the total amount of funding that an authorizer may withhold from a full-time charter school. The state board shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this act.

**§18-5G-7. Charter contract requirements; term of contract.**

(a) Within 90 days of the approval of a charter application, the governing board and the authorizer shall negotiate and enter into a charter contract.

(b) The charter contract shall address, in detail, the following items:

(1) The term of the contract: *Provided*, That the contract term shall be no longer than five years;

(2) The agreements relating to each item required under §18-5G-5(b) and §18-5G-5(c) of this code;

(3) The rights and duties of the authorizer and the public charter school;

(4) The administrative relationship between the authorizer and the public charter school;

(5) The process the authorizer will use to provide ongoing oversight;

(6) The specific commitments of the authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;

(7) The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found;

(8) The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the governing board;

(9) The process agreed to by the authorizer and the governing board that identifies how disputes between the authorizer and the board will be handled; and

(10) Any other terms and conditions agreed to by the authorizer and the governing board, including preopening conditions.

(c) The charter contract shall include provisions relating to the performance of the public charter school that set forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the performance provisions shall include indicators, measures, and metrics for:

(1) Student academic proficiency;

(2) Student academic growth;

(3) Achievement gaps in both student proficiency and student growth between student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;

(4) Student attendance;

(5) Student suspensions;

(6) Student withdrawals;

(7) Recurrent enrollment from year to year;

(8) Governing board's performance and stewardship, including compliance with all applicable statutes and terms of charter contract; and

(9) Additional valid and reliable indicators requested by the public charter school.

(d) The authorizer shall be responsible for collecting and reporting to the state board all state-required assessment and achievement data for the public charter school.

(e) The charter contract shall be signed by the chair of the governing board and the president of the county board, presidents of the county boards, the president of the public institution of higher education, or the chair of the West Virginia Public Charter



School Commission, as applicable. A copy of the charter contract shall be provided to the State Superintendent of Schools.

(f) No public charter school may commence operations without a charter contract that meets the requirements of this section, has been properly executed, and has been approved by, as applicable, a county board, county boards, the institutional board of governors of a public institution of higher education, or the West Virginia Public Charter School Commission. For any public institution of higher education that does not have an institutional board of governors, the charter contract instead shall be approved by the level of authority immediately above the president of the institution.

**§18-5G-8. Renewal or nonrenewal of charter contracts; revocation of charter contracts; rulemaking.**

(a) A charter contract may be renewed by the authorizer for a term of no more than five years. Authorizers may grant renewal with specific conditions for necessary improvements in the public charter school: *Provided*, That any specific condition imposed does not contradict the terms of this article.

(b) The State Board of Education shall promulgate a rule establishing the process for renewing or not renewing a charter contract. At a minimum, this rule shall include:

(1) A timeline for a governing board to submit an application for renewal to an authorizer;

(2) The information that must be included in an application for renewal;

(3) If the authorizer initially determines to deny a renewal application:

(A) Notification requirements to the governing board about the prospect of nonrenewal and the reasons for possible closure of the public charter school;

(B) An opportunity and timeframe for the governing board to provide a response to the notice of the nonrenewal;

(C) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should be renewed; and

(D) An opportunity for a recorded public hearing, at the request of the governing board;

(4) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the nonrenewal of the charter contract;

(5) The information that must be included in the authorizer's final decision if it determines to deny a renewal application;

(6) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(7) Approval of the authorizer's decision shall be adopted by the county board, county boards, institutional board of governors, or West Virginia Public Charter School Commission, as applicable, during an open meeting, subject to the following:

(A) If the authorizer is a public institution of higher education that has no institutional board of governors, the decision shall be adopted during an open meeting of the institution's level of authority immediately above the president or other chief administrator of the institution; and

(B) If the level of authority immediately above the president or other chief administrator is an individual, the open meeting requirement of this subdivision does not apply; and

(8) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of the renewal application.

(c) A charter contract shall not be renewed if the authorizer determines that the public charter school has:

(1) Committed a material violation of any of the terms, conditions, standards, or procedures required under this article or the charter contract, and has persistently failed to correct the violation after fair and specific notice from the authorizer;

(2) Failed to meet or make significant progress toward the program performance expectations identified in the charter contract;

(3) Failed to meet generally accepted standards of fiscal management, and has failed to correct the violation after fair and specific notice from the authorizer; or

(4) Substantially violated any material provision of law from which the public charter school was not exempted and has failed to correct the violation after fair and specific notice from the authorizer.

(d) A charter contract shall include provisions for revoking the charter contract. At a minimum, these provisions shall include:

(1) The information that must be included in the authorizer's initial decision to revoke the charter contract;

(2) Notification requirements to the governing board about the authorizer's initial decision to revoke a charter contract and the reasons for the revocation;

(3) An opportunity and timeframe for the governing board to provide a response to the authorizer's initial decision to revoke the charter contract;

(4) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should not be revoked;

(5) An opportunity for a recorded public hearing, at the request of the governing board;

(6) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract;

(7) The information that must be included in the authorizer's final decision if it determines to revoke the charter contract;

(8) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(9) Approval of the authorizer's decision shall be adopted during an open meeting, subject to the following:

(A) If the authorizer is a public institution of higher education that has no institutional board of governors, the decision shall be adopted during an open meeting of the institution's level of authority immediately above the president or other chief administrator of the institution; and

(B) If the level of authority immediately above the president or other chief administrator is an individual, the open meeting requirement of this subdivision does not apply; and

(10) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed.

(e) Notwithstanding the process set forth in §18-5G-8(d) of this code, an authorizer shall take immediate action to revoke a charter contract if the health and safety of students attending the public charter school is threatened.

(f) An authorizer shall develop a public charter school closure protocol or protocol for transitioning a charter school to noncharter public school status. The protocol shall ensure timely notification to parents, orderly transition of students and student records to new schools when applicable, and proper disposition of school funds, property, and assets. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the public charter school and the authorizer. If a public charter

school closes or transitions to noncharter public school status for any reason, the authorizer shall oversee and work with the closing or transitioning school to ensure a smooth and orderly closure or transition and transition for students and parents, as guided by the closure or school transition protocol. If a public charter school is subject to closure or transition, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure or transition. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure or transition of the public charter school in the name and interest of the public charter school.

**§18-5G-9. West Virginia Public Charter School Commission; members; appointments; meetings.**

(a) There is hereby created the West Virginia Public Charter School Commission which shall report directly to and be responsible to the state board, separate from the Department of Education, for carrying out its duties in accordance with this article. The mission of the commission is to authorize high-quality public charter schools throughout the state that provide more options for students to attain a thorough and efficient education, particularly through schools designed to expand the opportunities for at-risk students. The commission and public charter schools authorized in accordance with this article are subject to the general supervision of the state board solely for the purposes of accountability for meeting the standards for student performance required of other public school students under §18-2E-5 of this code. Consistent with the provisions of this article, the commission has authority to authorize public charter schools only upon the request by a county board that the Commission assume the role of authorizer or in school districts that do not meet academic standards as determined pursuant to state board policy. Except as otherwise authorized in this article, no other governmental agency or entity may assume any charter authorizing function or duty in any form.

(b) The commission shall consist of seven voting members, as follows:

(1) The State Superintendent of Schools, or designee;

(2) The Chancellor of the Higher Education Policy Commission, or designee;

(3) The Chancellor for Community and Technical College Education, or designee; and

(4) Four members appointed by the Governor, with the advice and consent of the Senate.

(c) The chair of the House Committee on Education and the chair of the Senate Committee on Education shall serve as nonvoting ex officio members of the commission.

(d) Each appointed member shall represent the public interest and must satisfy the following requirements:

(1) Be a citizen of the state;

(2) Possess experience and expertise in public or nonprofit governance, management and finance, public school leadership, assessment, curriculum or instruction, or public education law; and

(3) Have demonstrated an understanding of, and commitment to, charter schooling as a strategy for strengthening public education.

(e) No more than three of the appointed members of the commission may be of the same political party. No more than two of the appointed members may be residents of the same congressional district. No person may be appointed who holds any other public office or public employment under the government of this state or any of its political subdivisions, or who is an appointee or employee of any charter school governing board or an immediate family member of an employee under the jurisdiction of the commission or any charter school governing board. No person may be appointed who is engaged in, or employed by a person or

company whose primary function involves, the sale of services and activities to public charter schools or charter school governing boards.

(f) The initial appointments made pursuant to this section shall be for staggered one- and two-year terms. Thereafter, all appointments shall be for a term of two years. The initial appointments shall be made before February 1, 2020. The commission shall meet as soon as practical after February 1, 2020, upon the call of the Governor, and shall organize for business by selecting a chairman and adopting bylaws. Subsequent meetings shall be called by the chairman.

(g) An appointed member of the commission may be removed from office by the Governor for official misconduct, incompetence, neglect of duty, or gross immorality. A member may also be removed if the member's personal incapacity renders the member incapable or unfit to discharge the duties of the office or if the member is absent from a number of meetings of the commission as determined and specified by the commission in its bylaws. Whenever an appointed member vacancy on the commission exists, the Governor shall appoint, with the advice and consent of the Senate, a qualified person for the remainder of the vacated term.

(h) Except in the case of gross negligence or reckless disregard of the safety and well-being of another person, the commission and members of the commission in their official capacity are immune from civil liability with respect to all activities related to a public charter school approved by the commission. The official actions of the members of the commission who are serving in an ex officio capacity by virtue of their designation or employment in another position are commission member actions only, and may not be construed as official actions or positions of such member's employing entity.

(i) The commission may appoint an executive director and may employ such additional staff as may be necessary. The executive director shall serve at the will and pleasure of the commission. The executive director must demonstrate an understanding of and commitment to charter schooling as a strategy for strengthening

public education and must possess an understanding of state and federal education law.

(j) The commission shall meet as needed, but at least bi-annually. From funds appropriated or otherwise made available for such purpose, its members shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties upon submission of an itemized statement in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

#### **§18-5G-10. Prohibitions.**

Notwithstanding any provision in this article that may be interpreted to the contrary, a public charter school shall not:

(1) Be home-school based; and

(2) Discriminate on any basis for which the noncharter public schools of this state may not discriminate: *Provided*, That nothing in this subsection may be construed to limit the formation of a public charter school that is dedicated to focusing education services on at-risk students, students with disabilities, and students who pose such severe disciplinary problems that they warrant a specific education program.

#### **§18-5G-11. State board rule relating to funding for charter school enrollment and other necessary provisions.**

(a) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code setting forth requirements for public charter school funding. The rule shall include a requirement that 90 percent of the per pupil total basic foundation allowance follow the student to the public charter school, subject to the following:

(1) Notwithstanding §18-9A-1 *et seq.* of this code, the rule may provide for modifications to the calculations outlined in §18-9A-7 regarding the allowance for student transportation and in §18-9A-9(1) regarding the allowance for current expense for the purpose of providing additional state aid funding to county boards of education related to the operation of public charter schools;