

JOURNAL of THE SENATE State of West Virginia

EIGHTY-FIFTH LEGISLATURE

First Extraordinary Session, 2022

Regular Sixty-Day Session, 2022

Second Extraordinary Session, 2022

Third Extraordinary Session, 2022

Fourth Extraordinary Session, 2022

VOLUME II



NOTE: The second volume continues with Journal proceedings proper (page 1105) of February 23, and concludes with the proceedings of March 10, ending with page 2284 of the Regular Session.

WEDNESDAY, FEBRUARY 23, 2022

The Senate met at 11:03 a.m.

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

Prayer was offered by Pastor Chuck Kinder, Lay Pastor, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable David Stover, a senator from the ninth district.

Pending the reading of the Journal of Tuesday, February 22, 2022,

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 2096—A Bill to amend and reenact §11-13X-3, §11-13X-4, §11-13X-5, §11-13X-6, §11-13X-8, §11-13X-11, §11-13X-12, and §11-13X-13 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Film Industry Investment Act; reinstating the film investment tax credit; providing the coordination and management by the West Virginia development office; defining development office and multi-state distribution; excluding short-term depreciation from credit; raising the minimum threshold of cumulative annual expenditures necessary to qualify for credit; establishing an annual limit in credits available; requiring the development office to develop a database of locations, music, and other resources to be made

available to film production teams; providing development office discretion to determine if project negatively portrays West Virginia; providing effective date; and providing sunset provision.

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 3223—A Bill to amend and reenact §5-6-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §7-3-19; and to amend said code by adding thereto a new section, designated §8-12-22, all relating to prohibiting the dedication or naming any state, county, or municipal building or public structure for a public official who is holding office at the time of the proposed dedication or naming.

Referred to the Committee on Government Organization.

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 4019—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5G-16, relating to deadlines for public charter school contract execution and student enrollment application, lottery and enrollment for schools intending to open in school year beginning July 1, 2022, only; and delaying deadlines.

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 4262—A Bill to amend and reenact §21-5-5c and §21-5-5d of the Code of West Virginia, 1931, as amended; all relating to licensure for polygraph examiners;

removing state licensure requirements for polygraph examiners; creating national membership requirements for polygraph examiners; and updating criminal penalties associated with removing state licensure.

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 4566—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22C-1-6a, relating generally to additional powers of the West Virginia Water Development Authority; providing for the creation and administration of the Economic Enhancement Grant Fund; establishing sources of revenue for the fund; allowing administration costs; establishing a matching grant subaccount; establishing an enhancement grant subaccount; providing purposes for the fund and the subaccounts; providing for the participation of the West Virginia Infrastructure and Jobs Development Council, the West Virginia Department of Economic Development and the Secretary of Tourism; authorizing the Water Development Authority to enter into certain grant agreements; and requiring audit process and report to the Legislature.

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 4567—A Bill to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating the limiting of the imposition of the municipal business and occupation or privilege tax on the business of selling automobiles to used automobiles only, and stating that any sales proceeds from the sale of new automobiles that have never been registered in the name of an individual are exempt from the municipal business and occupation or privilege tax.

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 4591—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to accelerating the conversion of the state excise tax on the privilege of transferring real property into a county excise tax.

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 4604—A Bill to amend and reenact §18B-3D-2 of the Code of West Virginia, 1931, as amended, relating to abolishing the Workforce Development Initiative Program advisory council.

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 4606—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9A-5-1, §9A-5-2, and §9A-5-3, all relating to specifically authorizing programs to assist at-risk veterans through partnerships with service organizations engaged with their local veteran communities to connect veterans and their families with existing resources to combat suicide, and its contributing factors, among the veteran population in this state; providing legislative fundings and purpose; authorizing programs to assist at-risk veterans through partnerships with service organizations to combat suicide and its contributing factors among the veteran population; and providing for funding and grant-making from the Department of Veterans' Assistance to partner service organizations and for the purposes of this article.

Referred to the Committee on Military; 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 4644—A Bill amend and reenact §19-16A-14 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Pesticide Control Act; and exempting from the requirement of an annual pesticide business license for persons applying products that are generally available through retail sale at groceries, drug stores, and other stores offering a broad variety of consumer products.

Referred to the Committee on Agriculture and Rural Development.

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

Eng. House Joint Resolution 102—Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article XII thereof, relating to education and the supervision of free schools; clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Senator Takubo requested unanimous consent that the resolution be taken up for immediate consideration.

Which consent was not granted, Senator Baldwin objecting.

Thereafter, on motion of Senator Takubo, the resolution was taken up for immediate consideration, reference to a committee dispensed with, read a first time, and ordered to second reading.

Executive Communications

The Clerk then presented the following communications from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

February 23, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Four Thousand Twenty-Four (4024), which was presented to me on February 17, 2022.

Committee Substitute for House Bill No. Four Thousand Sixty-Seven (4067), which was presented to me on February 17, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Seventy-Six (4276), which was presented to me on February 17, 2022.

You will note that I have approved these bills on February 23, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

February 23, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

House Bill No. Four Thousand Two Hundred Sixty-Four (4264), which was presented to me on February 22, 2022.

You will note that I have approved this bill on February 23, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

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 22nd day of February, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 3312), Establishing a memorial to child labor and child workers who died in the course of employment in this state.

And,

(H. B. 4264), Change designation of Glenville State College to "Glenville State University".

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
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 23rd day of February, 2022, 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 S. B. 445), Modifying police and firemen's pension plans for trustees.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements.

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

Com. Sub. for Senate Bill 71 (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 §21-5J-1, §21-5J-2, §21-5J-3, and §21-5J-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; prohibiting political subdivisions from adopting, enforcing, or administering certain local requirements; clarifying effect on prior written agreements; providing that any prohibited local requirement in effect prior to the effective date is void; clarifying effect on lawfully enacted zoning ordinances; clarifying that article does not apply to municipal solid waste or recycling collection programs; clarifying that article does not apply to employees of a political subdivision; and clarifying effect on the West Virginia Alcohol and Drug-Free Workplace Act and certain similar requirements.

And,

Senate Bill 466, Relating to limitations on civil actions or appeals brought by inmates.

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

Com. Sub. for Senate Bill 466 (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 §25-1A-9, relating to limitations on civil actions or appeals brought by inmates by prohibiting an inmate to proceed in forma pauperis in civil actions when an inmate has, on three or more prior occasions, had a civil

action or appeal dismissed on the grounds that the action was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless permitted by a circuit court; exempting civil actions where an inmate alleges imminent danger of serious physical injury and states with particularity the factual basis of the assertion; and further exempting actions where the inmate seeks habeas relief relating solely to the propriety of custody.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 420, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments.

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

Com. Sub. for Senate Bill 420 (originating in the Committee on Government Organization)—A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-3-14d and §33-3-33 of said code, all relating generally to the distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments; defining terms; providing the method of allocation and distribution for proceeds of the fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing certain policy surcharge; establishing effective date for policy surcharge increase; requiring the State Fire Marshal provide certain information to the State Treasurer; and clarifying the requirements for distribution of funds in the Fire Protection Fund.

And,

Senate Bill 648, Relating to Cable Television Systems Act.

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

Com. Sub. for Senate Bill 648 (originating in the Committee on Government Organization)—A Bill to amend and reenact §24D-1-14 and §24D-1-17 of the Code of West Virginia, 1931, as amended, all relating to the Public Service Commission and the Cable Television Systems Act; requiring paper bill to be provided to subscriber at no charge; mandating cable operator to prorate charges for canceled services; adopting Federal Communications Commission customer service and technical standards; and requiring certain cable operators to operate an in-state customer call center.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 434, Updating authority to airports for current operations.

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

Com. Sub. for Senate Bill 434 (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-28-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-29-1, §8-29-2, §8-29-3, §8-29-4, §8-29-5, §8-29-6, §8-29-8, §8-29-9, §8-29-12, §8-29-17, and §8-29-20 of said code; to amend and reenact §8-29A-2; and to amend and reenact §8-29B-

2, §8-29B-3, and §8-29B-5 of said code, all relating to defining abandoned aircraft and providing for the disposal of such abandoned aircraft; to increasing the cost of violations for pedestrian traffic near airports and airport rules and regulations; updating certain terms and definitions; adding the term "international airport" and "vertiport" to certain areas of the code; adding to the authority of airports; addressing composition of county airport authority; and updating retirement information.

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. 434), 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 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

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

Com. Sub. for Senate Bill 468 (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 article, designated §16-2Q-1, §16-2Q-2, §16-2Q-3, §16-2Q-4, §16-2Q-5, §16-2Q-6, §16-2Q-7, §16-2Q-8, §16-2Q-9, §16-2Q-10, §16-2Q-11, and §16-2Q-12, all relating to creating the Unborn Child with Down Syndrome Protection and Education Act; providing for a short title; defining terms; creating dissemination of information on fetal disabilities; providing for informational publications by

department; providing that abortion may not be performed because of a disability, including Down syndrome except in the case of a medical emergency; providing reporting forms; providing professional sanctions and civil penalties; providing for additional enforcement; providing for construction of the act; creating severability; providing for the right of intervention; and providing for 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,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 468), under the original double committee reference, was then referred to the Committee on Finance.

Senator Hamilton, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 485, Authorizing DNR to enter certain third-party contracts.

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

Com. Sub. for Senate Bill 485 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-5-15 and §20-5-16 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resources to enter into certain contracts; increasing term of initial and renewal contracts for operation of certain facilities; authorizing certain contracts for certain facilities at all state parks and forests; reducing term of

renewal contracts for operation of certain facilities; and requiring director to notify Joint Committee of contracts for certain facilities.

And,

Senate Bill 562, Creating Adopt-A-Trail volunteer programs for public land under DNR jurisdiction.

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

Com. Sub. for Senate Bill 562 (originating in the Committee on Natural Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-23, relating to authorizing Adopt-A-Trail volunteer programs for public lands under the jurisdiction of the Division of Natural Resources; providing for activities to be performed by volunteer groups; requiring volunteer project agreements with the division; requiring certain requirements in agreements; establishing minimum requirements for volunteer organizations; establishing certain limitations on activities performed by volunteer groups; and providing for project coordination and removal and disposal of trash and other items.

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,

Bill Hamilton,
Chair.

The bills (Com. Sub. for S. B. 485 and 562), under the original double committee references, were then referred to the Committee on Finance.

Senator Tarr, 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 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

Com. Sub. for Senate Bill 536, Relating generally to controlled substance criminal offenses.

And,

Com. Sub. for Senate Bill 582, Creating WV Workforce Resiliency Act.

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

Respectfully submitted,

Eric J. Tarr,
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 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

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

Respectfully submitted,

Michael J. Maroney,
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 610, Relating to duties, powers and responsibilities of DOT Secretary.

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

Com. Sub. for Senate Bill 610 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2-1 and §17-2-2, all relating to the duties, powers, and responsibilities of the Secretary of the Department of Transportation; defining terms; and specifying duties, powers, and responsibilities of the Secretary of the Department of Transportation.

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,

Charles H. Clements,
Chair.

The bill (Com. Sub. for S. B. 610), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Senate Bill 638, Changing hearing and notice provisions for failing or distressed public utilities.

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

Respectfully submitted,

Mark R. Maynard,
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 644, Creating Charter Schools Stimulus Fund.

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,

Patricia Puertas Rucker,
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 647, Prohibiting discrimination in organ donation process.

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

Com. Sub. for Senate Bill 647 (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 article, designated §16-65-1, §16-65-2, §16-65-3, and §16-65-4, all relating to prohibiting discrimination based on an individual's

mental or physical disability in access to organ transplantation; and providing enforcement mechanisms.

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. 647), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 654, Creating exceptions to WV Invests Grant eligibility requirement.

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

Com. Sub. for Senate Bill 654 (originating in the Committee on Education)—A Bill to amend and reenact §18C-9-5 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Invests Grant; creating exceptions to the West Virginia Invests Grant eligibility requirement that the individual has not been previously awarded a post-secondary degree; requiring that the community service requirement for renewal be waived for recipients who are members of the armed forces of the United States or the West Virginia National Guard during the enrollment period; and providing for reimbursement to certain grant recipients that have repaid a grant and related expenses charged for failure to meet the community service requirement.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Rucker, unanimous consent being granted, the bill (Com. Sub. for S. B. 654) contained in the preceding report from the Committee on Education 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 658, Providing for salary supplement and expense reimbursements for licensed school psychologist.

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,

Patricia Puertas Rucker,
Chair.

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

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 672, Exempting certain military veterans and their dependents from payment of tuition and fees.

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,

Ryan W. Weld,
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 676, Relating to use of personal leave days by teachers.

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.

At the request of Senator Rucker, unanimous consent being granted, the bill (S. B. 676) contained in the preceding report from the Committee on Education was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 694, Relating to oil and gas conservation.

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

Com. Sub. for Senate Bill 694 (originating in the Committee on Finance)—A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4, and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to oil and gas conservation; modifying the membership of the Oil and Gas Conservation Commission; expanding duties of the commission; providing further declaration of public policy and legislative findings; defining terms; establishing a horizontal well unit application process; requiring certain conditions be met prior to approval of an application; providing for a hearing on the application; setting out factors for considering in the hearing; providing for notice; providing for an independent third-party review; setting forth time frames; providing for a horizontal well unit order; defining order terms; providing for options for non-leased mineral interest owners; providing options for nonconsenting operators; allowing for modification of the horizontal well unit order; providing for compensation for unknown and unlocatable mineral interest owners; establishing a process for surface owners to acquire mineral interest of unknown or unlocatable interest owners; and modifying rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
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 698, Relating to number and selection of members for Governor's Veterans Council.

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

Com. Sub. for Senate Bill 698 (originating in the Committee on Military)—A Bill to amend and reenact §9A-1-2 of the Code of West Virginia, 1931, as amended, relating to the number and selection of members for the Governor's Veterans Council.

And,

Senate Bill 701, Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education Program.

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

Com. Sub. for Senate Bill 701 (originating in the Committee on Military)—A Bill to amend and reenact §18-19-2 of the Code of West Virginia, 1931, as amended, relating to the eligibility of an active-duty service member's child or spouse for tuition-free education through the War Orphan Education Program.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Ryan W. Weld,
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 713 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §22-1-15 of the Code of West Virginia, 1931, as amended, relating to removing the statutory limit of \$300,000 for the Environmental Laboratory Certification Fund; and allowing field tests and remote monitoring or testing equipment to be certified by the laboratory certification program.

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

Respectfully submitted,

Randy E. Smith,
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 714 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §22A-6-7 of the Code of West Virginia, 1931, as amended, relating to tie votes by the Coal Mine Safety and Technical Review Committee; and providing that the Director of the Office of Miners' Health, Safety, and Training or his or her designee may vote to break the tie.

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

Respectfully submitted,

Randy E. Smith,
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 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge.

Senate Concurrent Resolution 37, Harrison County Veterans Memorial Bridge.

And,

House Concurrent Resolution 28, Cpt. Billy Jake Smith Memorial Bridge.

And reports the same back with the recommendation that they each 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 45, US Army CPL John D. Doyle, Sr. Memorial Road.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 45 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 10-017/00-001.40 (10A062), (37.97567, -81.11939), locally known as the Arbuckle Creek Bridge in Fayette County, the "U.S. Army CPL John D. Doyle, Sr. Memorial Bridge".

Whereas, John D. Doyle, Sr. was born on August 20, 1913, in Minden and raised in that community where he and his mother Katherine Doyle were members of the Saints Peter and Paul Roman Catholic Church. He graduated from Collins High School in Oak Hill and went to work at the New River and Pocahontas Coal Company in Minden; and

Whereas, Answering his nation's call, CPL John D. Doyle, Sr. entered military service on October 15, 1942. He was assigned to the Armor Corps where he was trained as a tank crewman. He was ultimately deployed to the European Theater of Operations and fought in the North Africa, Sicily, and Italy campaigns; and

Whereas, During the invasion of Italy CPL John D. Doyle, Sr. was assigned to Company A, 751st Tank Battalion which landed at

Anzio. On May 23, 1944, during the breakout operations, CPL John D. Doyle, Sr. was killed in action in Italy when his tank was severely damaged by enemy fire; and

Whereas, CPL John D. Doyle, Sr. was initially interred in an Allied Cemetery in Italy and later repatriated in 1949 to America and West Virginia where he lays to rest today at the High Lawn Memorial Park in Oak Hill; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL John D. Doyle Sr. and his ultimate sacrifice 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 10-017/00-001.40 (10A062), (37.97567, - 81.11939), locally known as the Arbuckle Creek Bridge in Fayette County, the "U.S. Army CPL John D. Doyle, Sr. Memorial Bridge"; 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 bridge as the "U.S. Army CPL John D. Doyle, Sr. Memorial Bridge"; and, be it

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

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 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4307, Increase some benefits payable from Crime Victims Compensation Fund.

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,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on the Judiciary 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

House Concurrent Resolution 30, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.

And has amended same.

And,

House Concurrent Resolution 59, "Warrant Officer James G. Bosley Memorial Bridge.'

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the seventh order of business.

Senate Resolution 38, Supporting Bilateral Trade Agreement between United States and Taiwan.

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

At the request of Senator Trump, 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 Trump regarding the adoption of Senate Resolution 38 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, at 11:40 a.m., the Senate recessed to present Senate Resolution 38.

The Senate reconvened at 11:44 a.m. and resumed business under the seventh order.

Senate Resolution 39, Recognizing Emergency Conservation Act.

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

At the request of Senator Lindsay, 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 eighth order of business.

Eng. Com. Sub. for Senate Bill 230, Relating generally to public employees grievance procedure.

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

Pending discussion,

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

Eng. Com. Sub. for Senate Bill 371, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

Having been read a third time on February 17, 2022, 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 470, Relating generally to health care decisions.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 470) passed.

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

Eng. Com. Sub. for Senate Bill 470—A Bill to amend and reenact §16-30-3, §16-30-4, §16-30-5, §16-30-10, §16-30-13, §16-30-19, §16-30-21, and §16-30-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-30C-5 of said code, all relating to health care decisions; defining terms; renaming the physician orders for scope of treatment as portable orders for scope of treatment and indicating that advanced practice registered nurses and physician assistants may complete them within their scope of practice; revising forms of a living will, medical power of attorney, and combined medical power of attorney and living will; removing availability of living will and combined medical power of attorney and living will for persistent vegetative state; providing clarifying language regarding the effect of signing a living will; providing clarifying language in living will that oral food and fluids must be provided as desired and tolerated; providing reciprocity for portable orders for scope of treatment or similar medical orders validly executed in another state; providing that forms executed prior to effective date of this bill remain in full force and effect; and providing for effective date.

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

Eng. Com. Sub. for Senate Bill 489, Clarifying amount of deputy sheriff annual salary increase.

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. Com. Sub. for Senate Bill 553, Relating to powers of WV Health Care Authority.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 553) 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 556, Removing outdated reference to federal officers' peace-keeping authority.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 556) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 556) 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 586, Relating to athletic eligibility of transfer students.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 22, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Weld, 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. STATE BOARD OF EDUCATION.**§18-2-25e. Athletic eligibility of transfer students.**

(a) The West Virginia Secondary School Activities Commission shall modify its rule, prior to the 2022-2023 school year, to allow students to transfer schools and retain athletic eligibility one time during a student's four years of secondary school, inclusive of grades nine through 12. The West Virginia Secondary School Activities Commission may promulgate an emergency rule, if necessary, to modify its rule prior to the 2022-2023 school year.

(b) The State Board of Education, in its review and approval of the West Virginia Secondary School Activities Commission's rule described in this section, shall ensure that the rule modification achieves the intent of this section to not require a student to undergo one year of athletic ineligibility if the student transfers secondary schools during or after the student's ninth grade year.

(c) Nothing in this section is intended to limit or restrict a student transferring more than one time for the following reasons:

(1) A student transferring back to the student's residential district and participating in athletics as currently permitted by the West Virginia Secondary School Activities Commission's rules;

(2) The West Virginia Secondary School Activities Commission's ability to make eligibility determinations on a case-by-case basis when warranted by a student's circumstances in accordance with the West Virginia Secondary School Activities Commission's rules; or

(3) For any other reason permitted under the rules of the West Virginia Secondary School Athletics Commission.

Following discussion,

The question being on the adoption of Senator Weld's amendment to the bill (Com. Sub. for S. B. 586), the same was put and prevailed.

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

Engrossed Committee Substitute for Senate Bill 586 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Baldwin, Caputo, 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. Com. Sub. for S. B. 586) passed.

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

Eng. Com. Sub. for Senate Bill 586—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e, relating to allowing students to transfer schools and retain their athletic eligibility one time during a student's four years of secondary school; requiring West Virginia Secondary School Activities Commission to modify its rule; authorizing emergency rule; requiring State Board of Education to ensure rule does not require student to undergo one year of athletic ineligibility upon transfer after ninth grade; clarifying effect on multiple transfers for certain reasons.

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

Eng. Senate Bill 619, Relating to rulemaking for unidentified and unclaimed remains in possession of Chief Medical Examiner.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 619) 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 628, Supplementing and amending appropriations to Department of Commerce, DNR.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 628) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton,

Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 628) 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 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 629) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton,

Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 629) 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 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account.

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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 630) passed with its title.

Senator Takubo moved that Engrossed Senate Bill 630 be made effective from passage and requested unanimous consent that the roll call used on the passage of the bill be used to make it so effective.

Which consent was not granted, Senator Beach objecting.

Thereafter, Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 630) takes effect from passage.

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

Eng. Senate Bill 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 633) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 633) takes effect from passage.

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

Eng. Senate Bill 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals.

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

Senator Jeffries 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 Senator Jeffries should be excused from voting on any matter pertaining to the bill and, without objection, Senator Jeffries was excused from voting on any matter pertaining to the bill.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Jeffries—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. 636) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Jeffries—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. 636) 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 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 637) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 637) 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 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 639) 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 640, Eliminating requirement of PSC to send certain recommended decisions by certified mail.

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. Com. Sub. for Senate Bill 643, Removing residency requirement of members appointed to county airport authority.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 643) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 643) 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 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

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, Boley, Brown, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Baldwin, Caputo, Geffert, Romano, and Sypolt—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 650) passed.

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

Eng. Com. Sub. for Senate Bill 650—A Bill to amend and reenact §37B-1-4 of the Code of West Virginia, 1931, as amended, relating generally to altering the applicability of the Cotenancy Modernization and Majority Protection Act; eliminating the precondition for applicability of the act which requires seven or more royalty owners; and correcting internal citations.

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

Eng. Senate Bill 651, Allowing county BOE participating in operation of multicounty vocational center to withdraw.

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 651 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Geffert, Grady, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Brown, Caputo, Hamilton, and Romano—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. 651) 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 660, Setting forth standard of care requirements for telehealth practice.

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 685, Relating to WV Real Estate License Act.

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

Senators Woodrum and Baldwin, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 685) 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 463, Best Interests of Child Protection Act of 2022.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 622, Establishing requirements for carbon dioxide sequestration.

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 588, Relating to WV Rails to Trails Program.

And,

Com. Sub. for Senate Bill 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Weld, Karnes, Romano, Grady, Lindsay, and Baldwin.

Thereafter, at the request of Senator Tarr, and by unanimous consent, the remarks by Senators Weld and Grady were ordered printed in the Appendix to the Journal.

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

At the request of Senator Lindsay, and by unanimous consent, the remarks by Senator Romano were ordered printed in the Appendix to the Journal.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 22, 2022:

Senate Bill 621: Senator Brown.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 22, 2022:

Senate Bill 420: Senators Nelson, Caputo, and Woodrum;

Senate Bill 432: Senator Lindsay;

Senate Bill 434: Senators Takubo, Swope, Lindsay, and Woodrum;

Senate Bill 468: Senator Azinger;

Senate Bill 645: Senator Hamilton;

Senate Bill 647: Senator Nelson;

Senate Bill 648: Senator Phillips;

Senate Bill 672: Senators Grady, Lindsay, Smith, and Hamilton;

Senate Bill 690: Senator Lindsay;

Senate Bill 692: Senator Caputo;

Senate Bill 698: Senators Lindsay and Hamilton;

Senate Bill 701: Senators Caputo, Grady, and Smith;

Senate Bill 704: Senator Maroney;

Senate Joint Resolution 9: Senator Lindsay;

Senate Concurrent Resolution 2: Senator Caputo;

Senate Concurrent Resolution 8: Senator Lindsay;

Senate Concurrent Resolution 18: Senator Lindsay;

Senate Concurrent Resolution 26: Senator Lindsay;

Senate Concurrent Resolution 30: Senator Lindsay;

Senate Concurrent Resolution 31: Senator Lindsay;

Senate Concurrent Resolution 32: Senator Lindsay;

Senate Concurrent Resolution 34: Senator Karnes;

Senate Concurrent Resolution 35: Senator Lindsay;

Senate Concurrent Resolution 36: Senator Lindsay;

Senate Concurrent Resolution 37: Senator Lindsay;

Senate Concurrent Resolution 39: Senator Lindsay;

Senate Concurrent Resolution 40: Senator Lindsay;

Senate Concurrent Resolution 41: Senator Lindsay;

Senate Concurrent Resolution 42: Senator Lindsay;

Senate Concurrent Resolution 47: Senator Lindsay;

Senate Concurrent Resolution 48: Senator Lindsay;

Senate Resolution 32: Senators Lindsay, Rucker, and Caputo;

Senate Resolution 33: Senators Lindsay and Caputo;

Senate Resolution 35: Senator Lindsay;

Senate Resolution 36: Senator Lindsay;

Senate Resolution 37: Senators Lindsay and Rucker;

Senate Resolution 38: Senators Jeffries, Lindsay, Baldwin, Stollings, Rucker, and Phillips;

And,

Senate Resolution 39: Senators Jeffries and Stollings.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1 p.m., the Senate adjourned until tomorrow, Thursday, February 24, 2022, at 11 a.m.

THURSDAY, FEBRUARY 24, 2022

The Senate met at 11:11 a.m.

(Senator Blair, 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, February 23, 2022,

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 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 3082—A Bill to amend and reenact §22-5-2 and §22-5-4 of the Code of West Virginia, 1931, as amended, relating to air pollution control; providing the West Virginia Department of Environmental Protection, Division of Air Quality, the authority to invest and reinvest funds held in the Air Pollution Control Fund and the Air Pollution Education and Environment Fund and to receive interest thereon from lawful investments of public funds to offset decreasing permit fee collections; providing that at the end of each fiscal year, unexpended balances, including accrued interest, shall not be transferred or redesignated to other accounts or the General Revenue Fund, but shall remain in the two funds for expenditure by the West Virginia Department of Environmental Protection, Division of Air Quality, in furtherance of its mission; and updating code language with technical corrections.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4048, WV Keep, Bear and Drive with Arms 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 4344—A Bill to repeal §49-2-125 of the Code of West Virginia, 1931, as amended; amend and reenact §49-1-203 of said code; to amend and reenact §49-2-111a and §49-2-111c of said code; to amend said code by adding thereto two new sections, designated §49-2-111d and §49-2-111e; to amend and reenact §49-4-405, §49-4-501 and §49-4-601 of said code; to amend and reenact §49-5-101 of said code; and to amend and reenact §49-9-101, §49-9-103, §49-9-105, §49-9-106 and §49-9-107 of said code, all relating to foster care; creating new definitions; deleting outdated language; requiring bureau of social services to issue a request for proposal to incorporate into its PATH system a matching database, and to create a dashboard database; requiring study of centralized intake; requiring salaries of direct service employees be increased and the Division of Personnel to increase certain salary ranges; implementation of the pay rates and employment requirements shall not be subject to" grievance procedures or private lawsuits; requiring circuit courts to enable multidisciplinary treatment team to meet monthly; including managed care case coordinator in multidisciplinary treatment team; allowing department to hire counsel; requiring sheriff's office to serve notice of hearing without additional compensation; permitting child agency or facility to disclose confidential information in certain circumstances; requiring foster care ombudsman to make recommendations in accordance with the Foster Child Bill of Rights and the Foster and Kinship Parent Bill of Rights; authorizing ombudsman to have access to kinship family; exempting foster care ombudsman from testifying about official duties; making ombudsman's records confidential and not admissible in evidence; removing circumstance for authorizing disclosure of confidential matters; making investigation of complaint confidential except when imminent risk of harm reported to foster care ombudsman; and requiring ombudsman to maintain confidentiality with respect to all matters and exceptions.

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 4345—A Bill to amend and reenact §17A-3-13 of the Code of West Virginia, 1931, as amended, relating to motor vehicle registration cards by establishing electronic or mobile registration cards; removing the requirement that physical registration cards be signed.

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 4391—A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to school nurses; requiring counties to employ nurses in proportion to student population; requiring each county to have at least one school nurse; allowing licensed practical nurses supervised by a registered professional nurse to be counted as nurse; requiring that registered professional nurse of a county complete needs assessment; requiring that registered nurses of each county meet as determined by the state board of education; and revising and removing obsolete language.

Referred to the Committee on Education; 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 4462—A Bill to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended, relating to requiring actuarial reports to be prepared and presented to the

Legislature's Joint Committee on Pensions and Retirement regarding active deferred retirement option plans every five years.

At the request of Senator Nelson, and by unanimous consent, the bill was taken up for immediate consideration, read a first time, ordered to second reading, 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 and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4479—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, and §5B-2K-6, all relating to establishing the Coalfield Communities Grant Facilitation Commission; providing legislative findings; establishing the Commission and providing for its membership and duties; providing for commission assistance from the Economic Development Authority and certain institutions of higher education; authorizing the Commission to provide the local match portion for local public and private entities applying for grants from federal, state and private sources; providing what constitutes a public purpose for eligibility for grant match; establishing a special revenue account; directing the creation of a special subcommittee of the Commission to assist the Commission and grant applicants with training and other technical expertise as directed by the Commission; and providing for annual electronic reports to the Legislature's Joint Committee on Government and Finance.

Referred to the Committee on Economic Development; 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 4496—A Bill to amend and reenact §12-1-12 of the Code of West Virginia, 1931, as amended, to allow interest

and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested and making said amendments retroactive in application.

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 4607—A Bill to repeal §16-5Y-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2D-9 and §16-2D-11; all relating to certificate of need; removing a health services from the list of services which may not be developed; and exempting health services from certificate of need.

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 4636—A Bill to amend and reenact §11-13-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-32, all relating to clarifying that business and occupation taxes, as well as city service fees, that are owed to a city or municipality are considered to be remitted "on time" when the date that they are postmarked is on or before the deadline date, rather than on the date that such taxes are physically received by a city or municipality; and clarifying that cities and municipalities may not impose a late fee or penalty for those taxes owed to them so long as they are postmarked on or before the deadline 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. House Bill 4643—A Bill to amend and reenact §16-2D-8, §16-2D-10 and §16-2D-11 of the Code of West Virginia, 1931, as amended, all relating to certificate of need; providing which health services require a certificate of need; and exempting certain health services from certificate of need.

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 4667—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-16-3, relating generally to creating a prohibition on county, municipality, city or town restrictions on advanced air mobility aircraft and advanced air mobility systems and defining terms.

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 and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4668—A Bill to amend and reenact §17C-15-50 of the Code of West Virginia, 1931, as amended, relating to air bag fraud; prohibiting counterfeit and nonfunctional air bags; establishing penalties for prohibited activities related to air bag fraud; specifying the applicability of the section; and creating 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. House Bill 4758—A Bill to amend and reenact §22-3-11 of the Code of West Virginia, 1931, as amended, relating to

developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program in order to better quantify the potential liability of the Special Reclamation Program for forfeited coal mining permits.

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 4768—A Bill to amend and reenact §24-2H-6b of the Code of West Virginia, 1931, as amended, relating to utility hearings, changing hearing location and customer notice provisions.

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 4769—A Bill to amend and reenact §24-1-9 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement to send recommended decisions by certified mail.

Referred to the Committee on Government Organization.

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 4785—A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to judicial vacancies; providing that a vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment if the unexpired term be for a period of not more than

three years; and clarifying that the amendment shall apply to judicial vacancies existing at the date of passage.

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 4797—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-30-1, relating to the Electric Vehicle Infrastructure Development Plan for National Electric Vehicle Infrastructure Formula Program funds.

Referred to the Committee on Economic Development.

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 the following resolutions:

House Concurrent Resolution 81—Requesting the Division of Highways name Bridge Number: 44-013/00-007.41 () (44A028), (38.63102,-81.47307) locally known as POCA TRUSS (SSTT), carrying County Route 13 over POCATALICO RIVER in Roane County, the "U. S. Army Chief Warrant Officer Milford Arnold Cunningham Memorial Bridge".

House Concurrent Resolution 83—Requesting the Division of Highways name a portion of County Route 30/1, beginning at (38.239066), (-82.192876) and ending at (38.239066), (-82.200978), locally known as Sheridan Road, in Lincoln County, the "U.S. Army SGT Charles L. Toppings Memorial Road".

House Concurrent Resolution 84—Requesting the Division of Highways informally name Keyser Street in Wayne, in Wayne County, the "U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard".

House Concurrent Resolution 87—Requesting the Division of Highways name the intersection of WV 82 and WV 20 in Cowan, Webster County, the "Joseph Allen Wyatt, Fire Chief of Cowen VFD Memorial Intersection".

The preceding resolutions were 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 24th day of February, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 3220), Restrictions on Taxpayer funded lobbying.

(H. B. 4060), Repealing outdated sections of code relating to health.

And,

(Com. Sub. for H. B. 4114), Authorizing certain agencies of the Department of Administration to promulgate legislative rules.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

Senator Tarr, 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 64, Allowing county commissions to impose amusement tax.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

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 §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; to amend and reenact §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-7 and, §29-22C-8 of said code; to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing for a local option election, defining terms; providing Lottery Commission authority to regulate secondary locations; providing for rulemaking; and providing for licensing of secondary locations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
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 232, Relating to punishment for second or third offense felony.

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

Com. Sub. for Senate Bill 232 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating to punishment for third offense felony; clarifying that release from incarceration includes federal incarceration; requiring that for what would otherwise be a qualifying offense not to be such at least 20 years of unincarcerated, unsupervised time must have elapsed between the most recent felony offense and the previous offense; and relating to punishment for third offense felony.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
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 424, Relating generally to 2022 Farm Bill.

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

Com. Sub. for Senate Bill 424 (originating in the Committee on Agriculture and Rural Development)—A Bill to repeal §19-1-10, §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-4, §19-2C-5, §19-2C-6, §19-2C-7, §19-2C-8, §19-2C-9, §19-2C-10, and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto one new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code, and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, §30-43-3, §30-43-4, §30-43-5, §30-43-6, §30-43-7, §30-43-8, §30-43-9, §30-43-10, §30-43-11, and §30-43-12 of said code, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; repealing auctioneers article and transferring regulation of auctioneers from Department of Agriculture to Secretary of State effective July 1, 2023; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on

the liming material law; removing requirement that commissioner publish and distribute annual report on the law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes; creating article transferring regulation of auctioneers from the Department of Agriculture to the Secretary of State effective July 1, 2023, providing for definitions, license requirement; exceptions; defining license application procedure; rulemaking; special revenue fund; bond requirement; requirements for auctioneer and apprentice auctioneer license; examination and background check of applicants; investigation of complaints; duties of auctioneers; procedure for reciprocal or nonresident licenses; orders, hearings, and review by secretary; penalties; suspension, denial, or revocation of licenses; auctioneer contracts; escrow accounts; advertising; effective date of article; and honoring prior licenses and pending applications.

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.

At the request of Senator Tarr, 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 Agriculture and Rural Development.

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 590, Clarifying that tenancy includes persons who reside in sober living home.

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

Com. Sub. for Senate Bill 590 (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 §37-6-5a; to amend and reenact §37-6A-5 of said code; and to amend and reenact §55-3A-1 of said code, all relating generally to residents of recovery residences; defining terms; providing that a resident of a recovery residence may be immediately discharged in certain circumstances; establishing procedures for removing recovery resident; establishing refund process for fees for residency or services paid to a recovery residence; requiring return transportation be provided to an individual transported to a recovery residence from outside the state of West Virginia; requiring the reporting of certain information to West Virginia Department of Health and Human Resources; requiring award of reasonable attorney's fees against recovery residence in certain instances; and requiring recovery residence file a petition for summary relief for wrongful occupation of residential rental property in certain circumstances.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 662, Relating to creation, expansion, and authority of resort area district.

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

Com. Sub. for Senate Bill 662 (originating in the Committee on Economic Development)—A Bill to amend and reenact §7-25-3, §7-25-5, §7-25-6, §7-25-10, and §7-25-15 of the Code of West Virginia, 1931, as amended, all relating to resort area districts; updating definitions and petition procedures; clarifying board nominee qualifications; permitting board members to receive reasonable compensation for service; detailing procedures for expansion of Resort Area District; providing for local election; and authorizing districts to collect service assessments from property owners for services.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,
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 9, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The resolution, 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 Concurrent Resolution 52 (originating in the Committee on Agriculture and Rural Development)—Requesting the Joint Committee on Government and Finance to conduct a formal feasibility study on the viability of establishing an accredited school of veterinary medicine in West Virginia and establishing additional veterinary technician programs in the state.

Whereas, Currently, there are only 33 accredited schools of veterinary medicine "veterinary schools" in the United States, with only 27 states housing veterinary schools; and

Whereas, The U.S. Bureau of Labor Statistics reported in 2019 that employment for veterinarians nationwide would increase 16% over the next decade, more than double the national average occupational growth (5 percent-8 percent); and

Whereas, Throughout 2021, multiple news organizations in West Virginia published articles describing the dire veterinarian shortage; and

Whereas, In 2018, the American Veterinary Medical Association Economics Division identified 113,394 veterinarians living in the United States, of whom 20,000 are expected to retire within the next five to 10 years; and

Whereas, Most counties in West Virginia have fewer veterinarians than the national average per capita and eight counties have no veterinarian at all; and

Whereas, West Virginia does not currently have a veterinary school and, therefore, West Virginia students must leave the state and pay out-of-state tuition to pursue a Doctor of Veterinary Medicine degree; and

Whereas, West Virginia currently spends \$1,040,520 per year to supplement the tuition of 52 West Virginia students who attend veterinary schools at Virginia Polytechnic Institute and State University ("Virginia Tech") (six seats per class) and Mississippi State University ("Mississippi State") (seven seats per class);

Whereas, In addition to the 13 West Virginia first year students who held seats at veterinary schools at Virginia Tech and Mississippi State, an additional 12 West Virginia students were identified as first year veterinary students in 2021 in an American Association of Veterinary Medical College internal data report; and

Whereas, The West Virginia students who meet the minimum qualifications for admissions to the programs at Virginia Tech and Mississippi State has increased from 35 students in 2016-2017 to 70 students in 2020-2021;

Whereas, Over the last two decades, applications to veterinary schools nationally have increased by 53 percent; and

Whereas, Establishing a veterinary school in West Virginia would enable West Virginia students to remain in West Virginia for their education; and

Whereas, Current student enrollment and interest in animal and nutritional science programs at state colleges and universities demonstrates the need for a veterinary school within the state; and

Whereas, West Virginia has a rich history of agriculture and is committed to developing a sustainable plan to maximize the agricultural sector for economic growth and prosperity, including the development and retention of large animal veterinarians to serve the state's growing agriculture industry; and

Whereas, There exists a need for educated and experienced professionals within the state to support the long-term prosperity of the agricultural industry; and

Whereas, Having a veterinary school in West Virginia would attract students from across the nation to West Virginia,

contributing to the economy and providing for the potential that the students will stay in West Virginia; and

Whereas, Considering the recitals above regarding the viability of establishing an accredited school of veterinary medicine in West Virginia, there also exists a concurrent need for additional educated and experienced veterinary technicians to serve and support the long-term prosperity of the agricultural industry in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of an accredited veterinary school in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved,

That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of establishing additional veterinary technician programs in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved,

That the studies shall focus on the most efficient and practical use of existing programs of study at state colleges and universities and the opportunity to incorporate these programs in a manner to prepare students for a pathway of veterinary medicine and a pathway for veterinary technicians, and develop and retain veterinarians and technicians within the state; and,

That the studies shall include a report on all barriers and impediments to creating an accredited veterinary school and additional veterinary technician programs; and, be it

Further Resolved,

That pending the results of the study and in the interim period leading up to the establishment of any veterinary school, if additional seats at other states' veterinary schools are necessary to ensure that the veterinary needs of West Virginia are met; and, be it

Further Resolved,

That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, 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 these studies, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance; and, be it

Further Resolved,

That the funding necessary to secure additional seats at other states' veterinary schools be paid through legislative appropriations to the state's annual budget.

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

Respectfully submitted,

Dave Sypolt,
Chair.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4002, Creating the Certified Sites and Development Readiness Program.

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,

Chandler Swope,
Chair.

At the request of Senator Swope, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4002) contained in the preceding report from the Committee on Economic Development was then referred to the Committee on Finance.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4084, Relating to advanced recycling.

And has amended same.

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

Respectfully submitted,

Chandler Swope,
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:

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 715—A Bill supplementing and amending the appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, by decreasing items of appropriation to the Department of Economic Development - Office of the Secretary, fund 0256, fiscal year 2022, organization 0307; and by increasing items of appropriation to the Department of Commerce - Office of the Secretary, fund 0606, fiscal year 2022, organization 0327 for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 716—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Education, State Board of Education - Strategic Staff Development, fund 3937, fiscal year 2022, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 717—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to Miscellaneous Boards and Commissions, Board of Medicine - Medical Licensing Board Fund, fund 9070, fiscal year 2022, organization 0945, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 718—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the

balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Administration, Travel Management - Aviation Fund, fund 2302, fiscal year 2022, organization 0215, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 719—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Fire Commission - Fire Marshal Fees, fund 6152, fiscal year 2022, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 720—A Bill supplementing and amending the appropriations of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

Senators Lindsay, Hamilton, Stollings, Baldwin, Plymale, Romano, Beach, and Jeffries offered the following resolution:

Senate Resolution 40—Affirming support for Ukrainian sovereignty, the people of Ukraine, and their right to self-determination.

Whereas, Ukraine's population is overwhelmingly Christian, and the people of West Virginia support their right to continue to

practice and spread the Christian faith, free of Russian violence and oppression; and

Whereas, The people of Ukraine and West Virginia have a shared love of freedom, independence, self-determination, and self-governance; and

Whereas, The 43.7 million people of Ukraine share an identity which is distinct and separate from Russia; and

Whereas, Approximately 77.8 percent of the Ukrainian population identify as Ukrainian, and only 17.3 percent of people in Ukraine identify as Russian; and

Whereas, The language, culture, and history of Ukraine is rich and distinct from Russian language, culture, and history; and

Whereas, Ukraine first declared independence from communist Russia in 1918; and

Whereas, Ukraine has enjoyed self-governance since its separation from the Soviet Union in August of 1991; and

Whereas, Ukraine ratified its most recent constitution in June of 1996; and

Whereas, Ukraine is recognized as a democratic republic and is governed by President Volodymyr Zelenskyy and Prime minister Denys Shmyhal; and

Whereas, The Ukrainian and West Virginian economies are driven by their abundance of natural resources; and

Whereas, The arable land in Ukraine is significantly larger than that in Russia, and should be used and enjoyed by the people of Ukraine, not exploited by the Russian government to expand its own power; and

Whereas, Persistent Russian interference and aggression weaken Ukrainian growth and investments; and

Whereas, Ukraine is the largest Eastern European country, making the retention of its independence from Russia a security interest of the United States and NATO; and

Whereas, A threat to the sovereign borders of Ukraine is a threat to all Western Democracies; and

Whereas, President Putin is an unstable, unpredictable threat to Europe, NATO, and its allies; therefore, be it

Resolved by the Senate:

That the Senate stands in solidarity with the people of Ukraine in their fight against Russian oppression, aggression, and annexation; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy to the Ukrainian Embassy in Washington, DC.

At the request of Senator Lindsay, 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 Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 40) adopted.

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the remarks by Senators Lindsay, Weld, and Stover regarding the adoption of Senate Resolution 40 were ordered printed in the Appendix to the Journal.

At the request of Senator Woodrum, unanimous consent being granted, the remarks by Senators Baldwin and Azinger regarding the adoption of Senate Resolution 40 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 Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 721 (originating in the Committee on Economic Development)—A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to municipalities required to be represented on county authority boards.

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

Respectfully submitted,

Chandler Swope,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge.

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

The question being on the adoption of the resolution, and on this question, Senator Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 34) 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 Caputo, and by unanimous consent, the remarks by Senator Romano regarding the adoption of Senate Concurrent Resolution 34 were ordered printed in the Appendix to the Journal.

Senate Concurrent Resolution 37, Harrison County Veterans 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.

Com. Sub. for Senate Concurrent Resolution 45, US Army CPL John D. Doyle, Sr. 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.

House Concurrent Resolution 28, Cpt. Billy Jake 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.

House Concurrent Resolution 30, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.

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

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page two, in the Resolved clause, line thirty-two, by striking out the word "WWII";

On page two, in the first Further Resolved clause, line thirty-five, by striking out the word "WWII";

And,

By striking out the title and substituting therefor a new title, to read as follows:

House Concurrent Resolution 30—Requesting the Division of Highways name a bridge bearing bridge number 40-039/00-000.10 () (40A048), (38.34513,-81.99779), locally known as

TRACE FORK TIMBER BRIDGE, carrying CR 39 over TRACE CREEK in Putnam county as the "U.S. Army Pvt. Dallis H. Johnson Memorial Bridge."

The question now being on the adoption of the resolution (H. C. R. 30), as amended, the same was put and prevailed.

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

House Concurrent Resolution 59, "Warrant Officer James G. Bosley Memorial Bridge."

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

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the third Whereas clause, line nine, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the fifth Whereas clause, line thirteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the sixth Whereas clause, line fifteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the seventh Whereas clause, line seventeen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eighth Whereas clause, line twenty, after "21" by inserting the words "years old";

On page two, in the ninth Whereas clause, line twenty-one, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the tenth Whereas clause, line twenty-four, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eleventh Whereas clause, line twenty-six, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the Resolved clause, line thirty, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

On page two, in the first Further Resolved clause, line thirty-three, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

And,

By striking out the title and substituting therefor a new title, to read as follows:

House Concurrent Resolution 59—Requesting the Division of Highways name bridge number 29-093/00-003.42 (29A054), locally known as Claysville Bridge, carrying WV 93 over New Creek in Mineral County, the "U.S. Army Warrant Officer James Gilbert Bosley Memorial Bridge".

The question now being on the adoption of the resolution (H. C. R. 59), as amended, the same was put and prevailed.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 230, Relating generally to public employees grievance procedure.

Having been read a third time on yesterday, February 23, 2022, and now coming up in regular order, was reported by the Clerk.

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

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

On page thirteen, section six, line two after the word "expenses:" by striking out the proviso and inserting in lieu thereof a new proviso to read as follows: Provided, That if the administrative law judge at level three finds that the opposing party presented a grievance or defense which lacked any basis in fact or law, was not brought in good faith, or was brought with malice or wrongful purpose, including, but not limited to, delay or harassment, then the administrative law judge may award the prevailing party actual attorney's fees and costs not to exceed \$1,000.

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 230 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Romano, Stollings, and Woelfel—11.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 230) 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 371, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

Having been read a third time on February 17, 2022, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page one, section one, after line six, by inserting the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

'7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,;

On page two, section two, after line six, by inserting the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,;

And,

On page two, section three, by striking out all of lines fourteen and fifteen and inserting in lieu thereof the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

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

Engrossed Senate Bill 371 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 371) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 371) 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 463, Best Interests of Child Protection Act of 2022.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 23, 2022, for amendments to be received on third reading, was read a third 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 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative Parental ~~parental~~ planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, with the goal of equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expedient, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the goal of equal (50-50) custodial allocation.

§48-1-102a Goal of equal (50-50) custodial allocation.

It is the goal that equal (50-50) custodial allocation be achieved in every case, that each parent have as much time as possible with the child, and is in the best interest of the child absent findings of facts and conclusions of law by the Court. The court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

(3) The parents' work and child-care schedules for the preceding ~~twelve~~ 12 months;

(4) The parents' current work and child-care schedules; and

(5) Any of the circumstances set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(e) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses at a hearing.

(d) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(e) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order.

~~(d)~~ (f) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a goal of equal (50-50) physical custody which is to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which

there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the~~

~~parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403~~(d)~~ of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(e) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as~~

~~in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e) (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer~~. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.~~

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any considerations as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2) (1) The level of each parent's participation in past decision making on behalf of the child;~~

~~(3) (2) The wishes of the parents; and~~

~~(4) (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.~~

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's ~~legal~~ parents has been exercising a reasonable share of the parenting functions for the child, the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment,~~ or by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~Provided, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents ~~or ordered by the court,~~ each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

~~§48-9-208. Criteria for parenting plan; Parental dispute resolution.~~

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~

in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor as set forth in ~~section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial

responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of~~ subsection (a) of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

(1) The factors set forth in subdivision (a) of this section;

(2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child;

(B) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

(C) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

(D) Has not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;

(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;

(G) Does not have a stable housing situation: *Provided*, That a parent's temporary residence with a child in a domestic violation shelter shall not constitute an unsafe housing situation; or

(H) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

(E) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical due to the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403~~, §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in subsection (a), section 9-209, §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to section 9-209 §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in

the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children.

§48-9-603. Effect of enactment; operative dates.

~~(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(e) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d)~~ (a) The amendments to this chapter ~~made~~ enacted during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(b) The amendments to this chapter enacted during the regular session of the Legislature, 2022, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.

(e) (c) The amendments to this chapter enacted during the regular session of the Legislature, 2022, shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter enacted during the regular session of the Legislature, 2022, shall be known as the 2022 Best Interest of the Child Act.

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 463 was then put upon its passage.

(Senator Rucker in the Chair.)

Pending discussion,

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

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 463 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Brown, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Caputo, Geffert, Lindsay, Plymale, Romano, Stollings, and Woelfel—9.

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. 463) 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, Clarifying amount of deputy sheriff annual salary increase.

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. Com. Sub. for Senate Bill 622, Establishing requirements for carbon dioxide sequestration.

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 640, Eliminating requirement of PSC to send certain recommended decisions by certified mail.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 640) 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 660, Setting forth standard of care requirements for telehealth practice.

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 referred to the Committee on Rules.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 588, Relating to WV Rails to Trails 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 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

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

Eng. House Joint Resolution 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

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

At the request of Senator Takubo, and by unanimous consent, the resolution was advanced to third reading with the right for amendments to be considered on that 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 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements.

Com. Sub. for Senate Bill 420, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments.

Com. Sub. for Senate Bill 466, Relating to limitations on civil actions or appeals brought by inmates.

Com. Sub. for Senate Bill 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

Com. Sub. for Senate Bill 536, Relating generally to controlled substance criminal offenses.

Com. Sub. for Senate Bill 582, Creating WV Workforce Resiliency Act.

Senate Bill 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

Senate Bill 638, Changing hearing and notice provisions for failing or distressed public utilities.

Com. Sub. for Senate Bill 648, Relating to Cable Television Systems Act.

Com. Sub. for Senate Bill 694, Relating to oil and gas conservation.

Com. Sub. for Senate Bill 698, Relating to number and selection of members for Governor's Veterans Council.

Com. Sub. for Senate Bill 701, Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education Program.

Senate Bill 713, Removing statutory limit for Environmental Laboratory Certification Fund.

Senate Bill 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee.

And,

Eng. Com. Sub. for House Bill 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Geffert, Brown, Azinger, and Romano.

Thereafter, at the request of Senator Romano, and by unanimous consent, the remarks by Senators Geffert and Brown were ordered printed in the Appendix to the Journal.

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

At the request of Senator Caputo, and by unanimous consent, the remarks by Senator Romano were ordered printed in the Appendix to the Journal.

At the request of Senator Boley, unanimous consent being granted, 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 Maynard, Takubo, Romano, and Karnes.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on February 23, 2022:

Senate Bill 699: Senator Stollings;

And,

Senate Bill 700: Senator Phillips.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills on February 23, 2022:

Senate Bill 252: Senator Swope;

Senate Bill 424: Senator Rucker;

Senate Bill 647: Senator Lindsay;

Senate Bill 656: Senators Jeffries and Lindsay;

And,

Senate Bill 694: Senator Nelson.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 1:05 p.m., the Senate adjourned until tomorrow, Friday, February 25, 2022, at 11 a.m.

FRIDAY, FEBRUARY 25, 2022

The Senate met at 11:04 a.m.

(Senator Blair, 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 Patricia Puertas Rucker, a senator from the sixteenth district.

Pending the reading of the Journal of Thursday, February 24, 2022,

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 concurrence by that body in the Senate amendments, as amended by the House of Delegates, 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 to the Senate amendments, as to

Eng. House Bill 3303, Relating to clarifying the process of filling vacancies on ballots.

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:

On page 2, section 11, line 40, immediately following the word "party", by inserting the following:

"No vacancy shall be filled after the date of the primary election, except as provided in §3-5-19 of this Code."

On page 3, section 19, line 25, immediately following the word "article", by striking the period, and inserting in lieu thereof the following

": *Provided*, That in no case shall any such vacancy be filled after the date of the primary election.";

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. House Bill 3303—A Bill to amend and reenact §3-5-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-5-19 of said code, all relating to clarifying the process of filling vacancies on ballots; authorizing the county executive committee or chair of an intra-county delegate or senatorial district to fill vacancy on primary election ballot; prohibiting Secretary of State from refusing certification of candidates appointed to an

intra-county delegate or senatorial district by the county executive committee for that district by certain deadline for placement on 2022 primary election ballot; authorizing the county executive committee or chair of an intra-county delegate senatorial district to fill vacancy on general election ballot; providing that no appointment to an unfilled vacancy may be made after a primary election, save in the case of the subsequent death, withdrawal, incapacity, or disqualification of a candidate; and making amendments retrospective to January 30, 2022.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Engrossed House Bill 3303, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3303) 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3303) 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 4105—A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §18A-4-23, relating to providing minimum experience requirement for director or coordinator of services class title involving school transportation; providing eligibility for candidates for professional employee positions involving supervision of a county transportation department; making any service employee who is certified as a Director or Supervisor of Pupil Transportation by the National Association for Pupil Transportation Certification; and requiring county boards to consider such candidates.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4299, To prohibit the intentional interference with election processes and creating associated criminal penalties.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4312, Extending the option of electronic absentee ballot transmission to first responders in certain emergency circumstances.

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 4491—A Bill to amend and reenact §22-11A-3 and §22C-9-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §22-11B-1, §22-11B-2, §22-11B-3, §22-11B-4, §22-11B-5, §22-11B-6, §22-11B-7, §22-11B-8, §22-11B-9, §22-11B-10, §22-11B-11, §22-11B-12, §22-11B-13, §22-11B-14, §22-11B-15, §22-11B-16, §22-11B-17, §22-11B-18, §22-11B-19, §22-11B-20, and §22-11B-21, all relating to regulating the permitting, drilling, operation, and closure of injection wells for the sequestration of carbon dioxide in underground storage reservoirs; declaring legislative purpose; defining terms; amending and specifying the scope of the prior program; providing an option for holders of pre-existing permits to pursue permit modifications under the prior or new law; establishing requirements for permitting; specifying application requirements and fees; clarifying that the provisions apply only to underground carbon dioxide sequestration operations and facilities; directing and authorizing the promulgation of rules by the Department of Environmental Protection and the Oil and Gas Conservation Commission; providing for public notice, participation, and hearings; authorizing certain conditions in permits and orders; preserving other existing powers of the secretary and the commission; preserving rights of existing mineral owners and authorizing cooperative agreements; declaring that carbon dioxide injected into an underground storage facility is not a pollutant and not a public nuisance; requiring permit holders to provide and update identification of a local agent; excluding enhanced oil, natural gas, or coalbed methane recovery projects using carbon dioxide injection from requirements of underground carbon dioxide storage permits; specifying requirements for completion of an underground carbon dioxide storage project; directing transfer

of carbon dioxide ownership to surface owners upon completion of project; providing for all liability and regulatory responsibilities to transfer to the state upon completion; establishing state responsibility for maintenance and monitoring after completion; establishing the Carbon Dioxide Storage Facility Administrative Fund and the Carbon Dioxide Storage Facility Trust Fund as special revenue accounts and describing the source of revenue, authorized purposes and uses of the funds; providing a process for completion of underground carbon dioxide storage projects; requiring fees for underground storage of carbon dioxide; limiting state and permittee liability; authorizing the secretary to make determinations of the amount of carbon dioxide able to be sequestered at a location; specifying local filing requirements; defining ownership of pore space formations; authorizing entry onto lands to conduct seismic surveys and establishing requirements and conditions therefore; requiring permit applicants and storage facility operators to identify and obtain consent from pore space owners; providing for acquisition and pooling of interests of nonconsenting pore space owners for the construction and operation of a storage facility; providing for acquisition and pooling of interests of unknown and unlocatable pore space owners for the construction and operation of a storage facility; providing for just and reasonable compensation for unknown, unlocatable, and nonconsenting pore space owners; providing for hearings to establish interests of pore space owners in reservoirs; providing for management of funds of unknown and unlocatable owners; limiting and establishing requirements for surface use; expanding the jurisdiction of the Oil and Gas Conservation Commission; providing for reporting; and providing for judicial review.

At the request of Senator Takubo and by unanimous consent, the bill was taken up for immediate consideration, reference to a committee dispensed with, read a first time, and ordered to second reading.

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

Eng. House Bill 4627—A Bill to amend and reenact §16A-7-4 of the Code of West Virginia, 1931, as amended, relating to providing for no more than two licensed laboratories for medical cannabis testing in this state until January 1, 2025.

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 4712—A Bill to amend and reenact §50-3-2a of the Code of West Virginia, 1931, as amended; and to amend and reenact §62-4-17 of said code, all relating to reducing the time period allowed for enrollment in magistrate court and circuit court payment plans and limiting the maximum length of payment plans.

Referred to the Committee on the Judiciary.

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 the following resolutions:

House Concurrent Resolution 82—Requesting the Division of Highways name Bridge Number: 30-003/05-002.58 () (30A012), (37.81677, -82.25903) locally known as Canterbury Box Beam, carrying County Road 3/5 over Laurel Creek, in Mingo County, the "Alleen Ledson Memorial Bridge".

House Concurrent Resolution 85—Requesting the Division of Highways name bridge number 13-017/02-000.34 (13A250), (37.94358, -80.47152), locally known as Culverson Creek Bridge, carrying CR 17/2 over Culverson Creek in Greenbrier County, the "McClintic Family Bridge".

House Concurrent Resolution 88—Requesting the Division of Highways name a portion of road, being the offramp beginning at the Mullins/Sophia Exit on the Coalfields Expressway, to the end

of the offramp at its intersection with WV 54 in Mullens, Wyoming County, the "Lewis Joseph D'Antoni Memorial Road".

The preceding resolutions were referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 29, Providing fee for processing of criminal bonds.

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

Com. Sub. for Senate Bill 29 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-10 of said code, all relating to the Courthouse Facilities Improvement Authority generally; imposing a \$10 processing fee for criminal bail bonds, other than personal recognizance bonds, which fee is to be deposited in the Courthouse Facilities Improvement Fund; imposing a \$25 fee for the processing of bail pieces, the revenue from which is deposited in the Courthouse Facilities Improvement Fund; and increasing the fee for a deed of conveyance with the increase dedicated to the Courthouse Facilities Improvement 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,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 29) contained in the preceding

report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and, 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 96, Requiring disclaimers on third-party, nongovernment solicitations mailed or otherwise provided to businesses.

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

Com. Sub. for Senate Bill 96 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to requiring disclaimers on third party, nongovernment solicitations of services for filing business annual reports with the Secretary of State; and creating criminal and civil penalties.

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 Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 96) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

Senator Tarr, 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 181 (originating in the Committee on Health and Human Resources), Creating Core Behavioral Health Crisis Services System.

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

Com. Sub. for Com. Sub. for Senate Bill 181 (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 §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5, §16-42-6, and §16-42-7, all relating to creating of the Core Behavioral Health Crisis Services System; designating crisis hotline centers; reimbursing treatment for crisis receiving and stabilization services; establishing the duties and powers of the secretary; providing for timelines for implementation; authorizing rulemaking, including emergency rules; and requiring annual reports.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 205, Expanding PEIA Finance Board membership.

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

Com. Sub. for Senate Bill 205 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the expansion of membership of the Public Employees Insurance Agency Finance Board; increasing number of appointed members on board; designating interests to be represented by additional appointed members of board; and making technical changes throughout.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

And,

Senate Bill 680, Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act.

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

Respectfully submitted,

Eric J. Tarr,
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 456, Requiring county boards of education to develop seizure action plans.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Tarr, 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 468 (originating in the Committee on Health and Human Resources), Creating Unborn Child with Down Syndrome Protection and Education Act.

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

Com. Sub. for Com. Sub. for Senate Bill 468 (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 §16-2Q-1, §16-2Q-2, §16-2Q-3, §16-2Q-4, §16-2Q-5, §16-2Q-6, §16-2Q-7, §16-2Q-8, §16-2Q-9, §16-2Q-10, §16-2Q-11, and §16-2Q-12, all relating to creating the Unborn Child with Down Syndrome Protection and Education Act; providing for a short title; defining terms; creating dissemination of information on fetal disabilities; providing for informational publications by department; providing that abortion may not be performed because of a disability, including Down syndrome except in the case of a medical emergency; providing reporting forms; providing professional sanctions and civil penalties; providing for additional enforcement; providing for construction of the act; creating severability; providing for the right of intervention; and providing for an effective date.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
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, Allowing nurses licensed in another state to practice in WV.

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

Com. Sub. for Senate Bill 518 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing eligible professional nurses and advance practice registered nurses, or the equivalent, to practice in West Virginia; removing expiration date of temporary permit; and providing that temporary permit is valid until the board approves or denies the endorsement request.

Senate Bill 652, Requiring hospitals to receive patients transported to them by EMS providers.

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

Com. Sub. for Senate Bill 652 (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 §16-5B-20, relating to prohibiting hospitals from refusing to receive and delaying the reception of patients presented

by emergency medical services; and defining the minimum duty of the hospital.

And,

Senate Bill 655, Authorizing tactical medical professional to carry firearm with specific training requirements.

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

Com. Sub. for Senate Bill 655 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-29-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, and §30-43-3, all relating to tactical medical professionals; defining terms; authorizing creation of training and certification requirements; authorizing tactical medical professional to carry firearms; and protecting from civil or criminal liability.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Tarr, 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 530 (originating in the Committee on Government Organization), Encouraging public-private partnerships in transportation.

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

Com. Sub. for Com. Sub. for Senate Bill 530 (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 §11-13A-6b; and to amend and reenact §17-27-3, §17-27-4, §17-27-5, §17-27-7, §17-27-8, §17-27-9, §17-27-11, §17-27-13, §17-27-14, §17-27-15, and §17-27-16 of said code, all relating to encouraging public-private partnerships related to transportation facilities; providing coal severance tax escrow fund for the state portion of coal severance taxes paid on a public-private transportation facility; authorizing the Division of Highways to repay collected tax in escrow to private entities; cleaning up antiquated language; clarifying the roles of the division, public entities, and developers; simplifying the public-private partnership review process; clarifying that Commissioner of the Division of Highways may approve or modify the division's rankings, authorize negotiations and entry into comprehensive agreement with the highest-ranked developer, or reject all proposals; providing that division is not obligated to accept, consider, or review unsolicited conceptual proposals, but may choose to do so; providing that no obligation or liability attaches to either party if they are unable to reach an agreement; providing that the division may negotiate a comprehensive agreement with the next highest-ranked developer if agreement cannot be reached with highest-ranked developer; clarifying the extent to which the division may utilize condemnation if it is found the project serves a public purpose or the developer is in material default; and exempting public-private partnership agreements from statutory government construction contract requirements.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 552, Relating to tax sale process.

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

Com. Sub. for Senate Bill 552 (originating in the Committee on Finance)—A Bill to repeal §11A-2-18, §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, and §11A-3-29 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-1-8, §11A-2-14, §11A-3-1, §11A-3-2, §11A-3-4, §11A-3-8, §11A-3-9, §11A-3-10, §11A-3-11, §11A-3-12, §11A-3-13, §11A-3-30, §11A-3-31, §11A-3-32, §11A-3-38, §11A-3-39, §11A-3-42, §11A-3-44, §11A-3-45, §11A-3-46, §11A-3-47, §11A-3-48, §11A-3-50, §11A-3-52, §11A-3-53, §11A-3-54, §11A-3-56, §11A-3-66, §11A-4-3, §11A-4-4, §16-18-3, §22-15A-30, §31-18E-9, and §31-21-11; all relating to the tax sale process; modifying the method by which notice is provided regarding the payment of property taxes; requiring a sheriff to accept credit cards as a form of payment for property taxes; allowing a sheriff to offer discounts on tax liability to taxpayers that pay with a credit card; modifying the deadline by which a sheriff must present delinquent lists to its county commission; modifying the deadline that a county commission certifies a delinquent list to the Auditor; providing that a sheriff provide a redemption receipt if property is redeemed prior to certification to the Auditor; modifying the policy related to the sale of tax liens; modifying the process by which a sheriff provides its second notice of delinquent real estate; modifying the timing and payment of redemption for delinquent properties prior to certification to the Auditor; modifying dates for Auditor to certify list of lands to be sold; providing any property not redeemed to the sheriff is to be certified to the Auditor; providing that the sheriff prepare a list of all the tax liens on delinquent real estate redeemed prior to certification or certified to the Auditor; providing that the sheriff account for the proceeds from redemptions prior to certification; providing a sheriff may modify its redemption and

certification list within 30 days after the publication of such list; providing for the publication of such list; requiring sheriffs keep separate accounts for redemption moneys; identifying lands subject to sale by the deputy commissioner; relating to the obligation that the Auditor certify and deliver a list of lands subject to sale by the deputy commissioner; addressing annual auctions held by the deputy commissioner and the publication of notice of public auctions held by the deputy commissioner; modifying timing of annual auction; relating the requirements that a purchaser must satisfy before he or she can secure a deed; modifying timing of purchaser obligation to secure deed; relating to the notice to redeem provided to a person entitled to redeem delinquent property; modifying fees for redemption; directing portion of fees for specific purpose; providing for certain delinquent taxpayers to redeem in incremental payments; addressing the right to set aside a tax deed improperly obtained or a tax deed obtained without sufficient notice; clarifying procedure for right to set aside deed; modifying certain definitions; creating a new special fund; relating to the right of certain entities to purchase delinquent properties; modifying compensation due deputy commissioner; and modifying certain obligations of the West Virginia Land Stewardship Corporation land bank program.

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,

Eric J. Tarr,
Chair.

At the request of Senator Tarr, unanimous consent being granted, the bill (Com. Sub. for S. B. 552) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

At the further request of Senator Tarr, and by unanimous consent, the bill was 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 558, Increasing members of WV Parole Board.

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

Com. Sub. for Senate Bill 558 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating to the board of parole generally; increasing the number of members on the board from nine to 12; establishing qualifications for members appointed after July 1, 2022; and removing the party affiliation limitation.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Eng. Com. Sub. for Senate Bill 574, Relating to WV PEIA.

Now on third reading, having been referred to the Committee on Rules on February 18, 2022;

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for S. B. 574) contained in the preceding report from the Committee on Rules was taken up for immediate consideration and read a third time.

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

Thereupon, on motions of Senators Takubo and Plymale, 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 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-20. Expense fund.

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission, or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the State Employee Insurance Plan. All other employers not operating from the state General Revenue Fund shall pay their proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the Nonstate Employee Insurance Plan.

§5-16-25. Reserve fund.

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year and supplementing any reimbursements made to hospitals and emergency medical

service providers or agencies in accordance with §5-16-30 of this code. Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall maintain the actuarily recommended reserve in an amount no less than 10 percent of the projected total plan costs for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article.

§5-16-30. Hospital Inpatient Rates.

(a) By July 1, 2023, the plan shall reimburse any hospital that provides inpatient care to a beneficiary covered by the plan at a rate of one hundred and ten percent of the Inpatient Prospective Payment System Diagnostic Related Group assigned amount then in effect for the federal fee for service component of the Medicare program.

(b) By July 1, 2023, the plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 et seq. at a rate of one hundred and ten percent of the Medicare rate.

(c) Nothing in this section limits the authority of the director under §5-16-3(c) and §5-16-9 of this code, including, but not limited to, his or her authority to manage provider contracting and payments and to designate covered and noncovered services.

(d) This section does not limit the authority of the director, the plan, or the plans under §5-16-11 of this code.

(e) This section shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2023.

Following discussion,

The question being on the adoption of the amendment offered by Senators Takubo and Plymale to the bill, the same was put and prevailed.

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

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

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 613, Establishing reliable funding for DEP Office of Oil and Gas.

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

Com. Sub. for Senate Bill 613 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §11-13A-5a of the Code of West Virginia, 1931, as amended, relating to the apportionment of oil and gas severance taxes; and relating to funding the West Virginia Department of Environmental Protection's Office of Oil and Gas adequately and meaningfully.

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,

Randy E. Smith,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 613) contained in the preceding report from the Committee on Energy, Industry, and Mining was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 617, Relating to qualifications for members of boards, commissions, and other entities.

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

Respectfully submitted,

Mark R. Maynard,
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 653, Relating to public higher education governance.

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

Com. Sub. for Senate Bill 653 (originating in the Committee on Education)—A Bill to repeal §18B-2A-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-3C-8 and §18B-3C-13 of said code, and to amend said code by adding thereto a new section, designated §18B-3C-13a, all relating to public higher education governance; making Pierpont Community and Technical College a fully integrated division of Fairmont State University known as the Pierpont College of Community and Technical Education on July 1, 2023; increasing the number of members of the Fairmont State University Board of Governors to 15 persons; requiring the appointment by the Governor of at least

one member on the Fairmont State University Board of Governors who has knowledge and practical experience in community and technical education; providing for two faculty members on the Fairmont State University Board of Governors at least one of which shall be from the faculty of the Pierpont College of Community and Technical Education selected by the faculty senate; providing that the administrative head of the Pierpont College of Community and Technical Education shall be a dean appointed by the President of Fairmont State University; requiring Fairmont State University to adhere to all provisions set forth in code and the rules of the Community and Technical College Council in the delivery of community and technical college education and programs; providing that the Fairmont State University Pierpont College of Community and Technical Education shall not maintain independent accreditation status; providing for a transition period to achieve full accreditation by the Higher Learning Commission; authorizing Fairmont State University to begin the change of control, structure, or organization process with the Higher Learning Commission on or after July 1, 2022; providing for the chairman of the Fairmont State University Board of Governors to appoint an advisory board to provide guidance to the board of governors in fulfilling the mission of the Pierpont College of Community and Technical Education; providing that the members of the advisory board shall elect a chairperson on or after July 1, 2023, who shall be an ex-officio, voting member of the Fairmont State University Board of Governors; providing that the operating budget of Pierpont Community and Technical College is integrated under the authority and jurisdiction of the Fairmont State University Board of Governors; transferring all financial assets and liabilities from the authority of Pierpont Community and Technical College Board of Governors to the authority of the Fairmont State University Board of Governors; providing that all revenue and refunding revenue bonds, the debt service thereon and the other obligations under the resolutions adopted and any trust agreements entered in connection therewith, and any other capital debt service payment formerly the responsibility of Pierpont Community and Technical College continue in existence and are the responsibility of the Board of Governors of Fairmont State University; transferring titles to all real property, facilities, and equipment of, as well as

each valid agreement undertaken by Pierpont Community and Technical College to the Fairmont State University Board of Governors; vesting title of all property purchased for the use of Pierpont Community and Technical College in the Fairmont State University Board of Governors; making faculty, classified employees, and nonclassified employees of Pierpont Community and Technical College employees of Fairmont State University; requiring Fairmont State University to develop an articulation agreement of course credit transfer of two-year academic programs to four-year academic programs; requiring Fairmont State University to continue participation in the Advanced Career Education Programs and the West Virginia Invests Grant Program; providing that Pierpont College of Community and Technical Education remains under the jurisdiction of the Community and Technical College Council; requiring reports to the Council for Community and Technical College Education and the Legislative Oversight Commission on Education Accountability; providing for transition team oversight with a sunset date; updating certain state institution of higher education names; repealing outdated language; and deleting obsolete language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 656, Providing tax credit for certain corporations with child-care facilities for employees.

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

Com. Sub. for Senate Bill 656 (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-71 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-24-44, all relating to providing a tax credit against the state corporate net income tax to for-profit corporations or a tax credit against payroll withholdings for nonprofit corporations, limited liability corporations, sole proprietorships, partnerships, and limited partnerships for expenditures related to the establishment and operation of employer-provided or sponsored child-care facilities; defining terms; providing for rulemaking; setting the amount of the credit; providing for limitation of the credit; and providing for a recapture process.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
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 668, Clarifying eligibility for probation and parole conditions for sex offenses.

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

Com. Sub. for Senate Bill 668 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-2 and §62-12-9 of the Code of West Virginia, 1931, as amended, all relating generally to judicial treatment of sex offenses; requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have a treatment plan to be eligible for probation; and expanding the list of offenses for which a defendant

has been convicted which preclude the defendant from residing with minor children or having any contact with the victims.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
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 671, Modernizing regulation of car-sharing services in WV.

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

Com. Sub. for Senate Bill 671 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-5, §17A-6F-7, and §17A-6F-13 of the Code of West Virginia, 1931, as amended, all relating to the regulation of peer-to-peer car sharing.

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 T. Azinger,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 671) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, ordered

to second reading, and, 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 693, Clarifying meeting voting requirements for political party executive committees.

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

Senate Bill 703, Relating to controlled substances schedule.

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

Respectfully submitted,

Michael J. Maroney,
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 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

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

Com. Sub. for Senate Bill 704 (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 §18-5-27, relating to requiring each classroom teacher to comply with any request by a parent, grandparent, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, grandparent, or guardian, that the classroom teacher demonstrate how the supplementary instructional material relates to the content standards adopted by the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, grandparent, or guardian upon request; allowing any parent, grandparent, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
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 Concurrent Resolution 53 (originating in the Committee on Energy, Industry, and Mining)—Requesting the Office of Miners' Health, Safety, and Training study the feasibility of creating within it a division dedicated to the protection of health, safety, and training of all energy producing facilities of this state.

Whereas, The Director of the Office of Miners' Health, Safety, and Training shall present to the Joint Committee on Government and Finance during the 2022, legislative interim sessions the feasibility of dedicating a division of his or her office to the purpose of protecting of health, safety, and training of persons employed at or within all energy producing facilities of this state, and also to protect and preserve energy producing property and property used in connection therewith; and

Whereas, The goal of the Office of Miners' Health, Safety, and Training is currently to protect the safety and health of persons employed within or at coal mining facilities, only; and

Whereas, The goal of the Legislature should be to protect the safety and health of all persons employed at any facility which produces energy from any source, be it coal, oil, natural gas, solar, wind, nuclear, hydroelectric, or any other source; and

Whereas, In the information provided, the Director of the Office of Miners' Health, Safety, and Training shall include the following: (1) Feasibility of a new division within his or her office dedicated to the protection of the safety, health, and training of persons employed within or at all facilities in all energy sectors; (2) funding necessary; (3) education necessary and inspector certification specifications as any would differ from those already in place for coal mines; (4) a vision and mission statement for a new division which would accomplish this purpose; (5) a list of what the Office of Miners' Health, Safety, and Training is doing now regarding the coal industry that could be easily transitioned to other energy producing sectors; (6) a list of new powers and duties the Office of Miners' Health, Safety, and Training would need to accomplish its goal of protecting the health, safety, and training of persons employed at or within energy producing facilities which are not coal mining facilities; (7) a plan for the Legislature's

consideration of a new division to empower the current Office of Miners' Health, Safety, and Training in the resolution's purpose that comprehensively considers the items identified herein; (8) any other considerations; and (9) a date certain that any new division could be transitioned into the Office of Miners' Health, Safety, and Training, should legislation be passed to make it possible in the 2023 Legislative Session; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Office of Miners' Health, Safety, and Training to study the feasibility of creating within it a division dedicated to the protection of health, safety, and training of all energy producing facilities of this state; 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 Office of Miners' Health, Safety, and Training, requesting his or her cooperation.

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Randy E. Smith,
Chair.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Resolution 22, Commemorating 250th anniversary of Berkeley County.

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

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:

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 722—A Bill expiring funds to the balance of the Department of Environmental Protection, Division of Environmental Protection - Reclamation of Abandoned and Dilapidated Property Program Fund, fund 3305, fiscal year 2022, organization 0313, in the amount of \$10,000,000, from the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, fund 8823, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 723—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Agriculture - West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2022,

organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 724—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Division of Corrections and Rehabilitation - Regional Jail and Correctional Facility Authority, fund 6675, fiscal year 2022, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 725—A Bill supplementing and amending chapter eleven, Acts of the Legislature, regular session, 2021, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, to the Department of Homeland Security, West Virginia State Police, fund 0453, fiscal year 2022, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022, by adding new language.

Referred to the Committee on Finance.

Senator Romano offered the following resolution:

Senate Resolution 41—Designating February 28, 2022, as Recovery Community Day.

Whereas, From April 2020 to April 2021, more than 100,000 Americans and 1,607 West Virginians died from a drug related overdose; and

Whereas, The Coronavirus (COVID-19) pandemic disrupted daily life and has negatively affected those with substance abuse substantially more than the general population, leading to an increase in opioid overdose in 37 of the 38 reporting jurisdictions, according to the Centers for Disease Control and Prevention; and

Whereas, West Virginia has the highest number of opioid-related deaths per capita in the United States; and

Whereas, As many as 40,000 people nationally, including 4,000 youth, seek treatment for illegal drug use and fail to receive it in any given year; and

Whereas, One in 13 individuals age 12 or older, and one in seven young adults age 18 to 25 needed some form of intervention for substance use annually from 2015-2018; and

Whereas, More than one in six high school students report drinking alcohol for the first time prior to turning 13 years old; and

Whereas, In 2018 Congress enacted Public Law 115-271, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, known as the SUPPORT for Patients and Communities Act to address the nationwide opioid crisis; and

Whereas, A recovery coach is defined in the SUPPORT for Patients and Communities Act as an individual with knowledge of, or experience with recovery from a substance use disorder who has completed training, and is in good standing with a recovery services organization capable of conducting such training and making such a determination; and

Whereas, Recovery coaches assist individuals in recovery by fostering social interactions, sharing experiences, promoting wellness, improving quality of life, improving coping skills, supporting acceptance of illnesses, or life situations; and

Whereas, Youth-life recovery coaches promote prevention and recovery by removing barriers and obstacles to social, emotional, and growth mindset learning and serving as personal guides and

mentors for young people who are seeking help with life transitions and their journey to adulthood; and

Whereas, By working with recovery coaches, peers, and others in the community, individuals in recovery can establish a connection with society, gain and provide hope for others, counter the associated stigmas, and share the perspectives and truths gained during their journey; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 28, 2022, as Recovery Community Day at the Legislature in honor of all those who dedicate themselves to reversing the society altering effects of substance abuse and addiction; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Recovery Community Day.

Which, under the rules, lies over one day.

Senator Lindsay offered the following resolution:

Senate Resolution 42—Recognizing the 911 public safety telecommunicators as true "first responders".

Whereas, The 911 public safety telecommunicators serve 24 hours a day, seven days a week, as do firefighters, law enforcement officers, and emergency medical service workers; and

Whereas, The 911 public safety telecommunicators make sacrifices in their personal lives as firefighters, law enforcement officers, and emergency medical service workers by leaving their families, friends, and the safety of their surroundings to handle emergency 911 calls that save lives, protect property, and ensure the safety of our community during weather, chemical, and other emergency incidents; and

Whereas, The 911 public safety telecommunicators heroically answer 911 emergency calls around-the-clock giving medical

guidance, instructing callers on staying safe in difficult situations, and helping callers to safety during disasters all while promptly dispatching field first responders to reported emergency situations; and

Whereas, The 911 public safety telecommunicators must handle the stress of answering over a half a million calls each year, often being the only voice on the other end of the call as citizens experience the worst day of their lives. They hear the cries of devastation, the screams for help, and are the unseen support as citizens cope with the loss of a loved one. The 911 public safety telecommunicators handle all of this at the very same time that they are keeping their fellow emergency responders safe in the field; and

Whereas, To honor the men and women who serve in this critical position, we recognize these individuals throughout Kanawha County by proclaiming to regard them as true "first responders"; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the 911 public safety telecommunicators as true "first responders"; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Mr. Rick McElhany, Deputy Director of Operations, Metro 911 of Kanawha County, West Virginia.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 52, Requesting study on establishing accredited school of veterinary medicine in WV.

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

The question being on the adoption of the resolution, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sybolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 52) adopted.

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 489, Clarifying amount of deputy sheriff annual salary increase.

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

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

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

On page one, section seventeen-c, after line twelve, by adding thereto a new subsection, designated subsection (d), to read as follows:

(d) The annual money supplement shall be considered for purposes of calculating a deputy sheriff's benefits, including, but not limited to, retirement benefits.

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 489 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 588, Relating to WV Rails to Trails 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 588 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings,

Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 588) passed with its title.

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

Eng. Com. Sub. for Senate Bill 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 616) passed with its title.

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

Eng. Com. Sub. for Senate Bill 622, Establishing requirements for carbon dioxide sequestration.

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 referred to the Committee on Rules.

Eng. House Joint Resolution 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 24, 2022, for amendments to be received on third reading, was reported by the Clerk.

Senator Takubo requested unanimous consent that the resolution lie over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Which consent was not granted, Senator Baldwin objecting.

Senator Takubo then moved that the resolution lie over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Following discussion,

Senator Baldwin moved that the resolution be referred to the Committee on Finance; and then to the Committee on the Judiciary, with the right to amend on third reading remaining in effect.

The President stated that pursuant to Rule 39 of the Rules of the Senate, the motion to refer Engrossed House Joint Resolution 102 to committee was out of order as the motion to postpone the question to a different day takes precedence.

The question now being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Whereupon, the resolution (Eng. H. J. R. 102) was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements.

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

At the request of Senator Weld, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 420, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 466, Relating to limitations on civil actions or appeals brought by inmates.

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 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

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 536, Relating generally to controlled substance criminal 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 582, Creating WV Workforce Resiliency Act.

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

Senate Bill 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

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

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

On page six, section ten, line one hundred twenty-three, by striking out all of subsection (j) and inserting in lieu thereof a new subsection (j), to read as follows:

(j) The board shall not issue an initial license, reinstate, or reactivate a license, to any individual whose license has been revoked, suspended, surrendered, or deactivated in another state based upon conduct which is substantially equivalent to an act of unprofessional conduct prohibited by §30-3-14(c) of this code or the board's legislative rules, until reinstatement of his or her license in that state.

The bill (S. B. 603), as amended, was then ordered to engrossment and third reading.

Senate Bill 638, Changing hearing and notice provisions for failing or distressed public utilities.

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 648, Relating to Cable Television Systems 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 694, Relating to oil and gas conservation.

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 and adopted:

On page 24, section 7a, line 247, by striking out the word "shallow";

On page 28, section 7a, line 341, by striking out the word "allow" and inserting in lieu thereof the word "consider";

On page 33, section 7a, line 468 by striking out the word "and";

On page 33, section 7a, line 471 after the word "code" by striking out the period and inserting the word "; and";

And,

On page 33, section 7a, after line 471 by inserting a new subparagraph, designated subparagraph (iii), to read as follows:

(iii) The highest production royalty percentage in the unit in connection with other leases in the same target formation controlled by the applicant within the horizontal well until and dated within the 24 months preceding the application date, as provided in §22C-9-7a(f)(7)(B)(ii) of this code.

The bill (Com. Sub. for S. B. 694), as amended, was then ordered to engrossment and third reading.

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings,

Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Beach—1.

Absent: Jeffries—1.

Engrossed Committee Substitute for Senate Bill 694 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 694 pass?"

On the passage of the bill, the yeas were: Beach, Boley, Brown, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Caputo, Clements, Geffert, Romano, and Sypolt—7.

Absent: Jeffries—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. 694) 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 Smith, and by unanimous consent, the remarks by Senator Woelfel regarding the passage of Engrossed Committee Substitute for Senate Bill 694 were ordered printed in the Appendix to the Journal.

Com. Sub. for Senate Bill 698, Relating to number and selection of members for Governor's Veterans Council.

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 701, Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education Program.

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

Senate Bill 713, Removing statutory limit for Environmental Laboratory Certification Fund.

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

Senate Bill 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee.

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 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

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

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

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

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 of this code,

modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 14, 2021, relating to the Department of Health and Human Resources (Methods and Standards for Chemical Tests for Intoxication, 64 CSR 10), is authorized.

(b) The legislative rule filed in the State Register on July 23, 2021, authorized under the authority of §16-5B-8 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 14, 2021, relating to the Department of Health and Human Resources (Hospital Licensure, 64 CSR 12), is authorized with the following amendment:

On page 22, subdivision 7.3.11, by striking the words "as prescribed by the attending practitioner" and inserting the words, "as recommended by a qualified dietician;".

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-35-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the Department of Health and Human Resources (Childhood Lead Screening, 64 CSR 42), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 14, 2021, relating to the Department of Health and Human Resources (Food Manufacturing Facilities, 64 CSR 43), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review

Committee and refiled in the State Register on September 24, 2021, relating to the Department of Health and Human Resources (Sewage Treatment and Collection System Design Standards, 64 CSR 47), is authorized.

(f) The legislative rule filed in the State Register on September 10, 2021, authorized under the authority of §16-4C-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the Department of Health and Human Resources (Emergency Medical Services, 64 CSR 48), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §64-5-1 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the Department of Health and Human Resources (Clinical Laboratory Practitioner Licensure and Certification, 64 CSR 57), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-11-3 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the Department of Health and Human Resources (Clandestine Drug Laboratory Remediation, 64 CSR 92), is authorized with the amendments set forth below:

On page four, after the section caption, by adding the words "Licensed technicians shall:";

On page four, Subsection 5.3., b striking out the words "and ceiling" and inserting in lieu thereof the words "ceiling, and HVAC unit, vent, and return";

On page five, subdivision 7.1.2., by striking out the words "the residential property owner shall";

On page six, subdivision 7.1.4. by striking out all of subdivision 7.1.4. and inserting in lieu thereof a new subdivision 7.1.4. to read as follows:

"7.1.4. When analytical testing shows a level of contamination of greater than 1.0 ug/100 cm², contract within 60 days a licensed clandestine drug lab remediation contractor to either remediate or demolish the residential property in accordance with this rule.";

On page six, subsection 9.1., after the word "commissioner", by inserting the words "within 10 days of receipt of the initial analytical results"

On page seven, paragraph 9.2.1.i. after the semicolon, by striking out the word "and";

On page seven, paragraph 9.1.2.j. by striking out the words "must be";

On page seven, after paragraph 9.1.2.j., by adding the following paragraphs:

"9.1.2.k. A general listing of items to be removed from the residential property for disposal;

9.1.2.l. Items requiring special handling for disposal; and

9.1.2.m. Any obvious safety hazards."

And,

On page twelve, subdivision 12.8.6., by striking out the word "three" and inserting in lieu thereof the word "one".

(i) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-4E-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the Department of Health and Human Resources (Maternal Risk Screening, 64 CSR 97), is authorized.

(j) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-4F-5 of this code, relating to the Department of Health and Human Resources (Expedited Partner Therapy, 64 CSR 103), is authorized.

(k) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-5Y-13 of this code, relating to the Department of Health and Human Resources (Medication-Assisted Treatment - Opioid Treatment Programs, 69 CSR 11), is authorized.

(l) The legislative rule filed in the State Register on August 27, 2021, authorized under the authority of §16-64-7 of this code, relating to the Department of Health and Human Resources (Syringe Services Program Licensure, 69 CSR 17), is authorized.

§64-5-2. Health Care Authority.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-2D-4 of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Health Care Authority (Certificate of Need, 65 CSR 32), is authorized with the following amendment:

On page 4, by striking paragraph 2.1.j.9, in its entirety, and renumbering the remaining paragraphs.

§64-5-3. Department of Health and Human Resources and Insurance Commission.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-8 of this code, modified by the Department of Health and Human Resources and Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2021, relating to the Department of Health and Human Resources and Insurance Commission (All Payer Claims Database - Data Submission Requirements, 114A CSR 01), is authorized with the amendments set forth below:

On page 3, subsection 2.20. by striking out the word "procedural" and inserting in lieu thereof the word "legislative";

And

On page 5, subsection 4.2. by striking out the word "procedural" and inserting in lieu thereof the word "legislative"

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-4 of this code, relating to the Department of Health and Human Resources and Insurance Commission (All-Payer Claims Database Program's Privacy and Security Requirements, 114A CSR 02), is authorized.

The bill (Eng. Com. Sub. for H. B. 4126), 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 64, Allowing county commissions to impose amusement tax.

Com. Sub. for Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

Com. Sub. for Senate Bill 232, Relating to punishment for third offense felony.

Com. Sub. for Senate Bill 424, Relating generally to 2022 Farm Bill.

Com. Sub. for Senate Bill 590, Clarifying that tenancy includes persons who reside in sober living home.

Com. Sub. for Senate Bill 662, Relating to creation, expansion, and authority of resort area district.

Senate Bill 721, Relating to municipalities required to be represented on county authority boards.

And,

Eng. Com. Sub. for House Bill 4084, Relating to advanced recycling.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Phillips.

At the request of Senator Phillips, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the anniversary of the Buffalo Creek Disaster.

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

Remarks were made by Senators Karnes and Weld.

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

At the request of Senator Maynard, unanimous consent being granted, the Senate returned to the eleventh order of business and the introduction of guests.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 24, 2022:

Senate Bill 653: Senator Lindsay.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolution on February 24, 2022:

Senate Bill 96: Senator Martin;

Senate Bill 205: Senators Nelson and Jeffries;

Senate Bill 652: Senator Rucker;

Senate Bill 655: Senators Roberts and Woodrum;

Senate Bill 656: Senators Baldwin, Plymale, and Weld;

Senate Bill 668: Senator Lindsay;

Senate Bill 680: Senator Hamilton;

Senate Bill 693: Senator Woodrum;

Senate Bill 704: Senator Martin;

And,

Senate Joint Resolution 9: Senator Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:44 p.m., the Senate adjourned until Monday, February 28, 2022, at 11 a.m.

MONDAY, FEBRUARY 28, 2022

The Senate met at 11:08 a.m.

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

Prayer was offered by Pastor Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, 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 Friday, February 25, 2022,

At the request of Senator Phillips, 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 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, Relating to procedure to settle decedents' estates.

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 §44-2-1 and §44-2-29 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-4a and §44-3A-19 of said code; and to amend and reenact §44-4-9 of said code, all relating to the procedure to settle estates of decedents; abolishing the requirement to publish a short form settlement of estates of decedents; providing for short form filing procedure; and updating language and style.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 223) contained in the

preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 266, Adding definition of "ammunition" for purposes of obtaining state license to carry concealed deadly weapon.

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 §61-7-4 of the Code of West Virginia, 1931, as amended, relating to adding definition of "ammunition" for purposes of the live fire requirement for obtaining a license to carry a concealed deadly weapon; and clarifying that marked rounds and training ammunition may be used in the required training course.

And,

Senate Bill 413, Clarifying crime of stalking.

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

Com. Sub. for Senate Bill 413 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to clarifying the criminal offense of harassment; and clarifying that stalking is a form of harassment.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Com. Sub. for S. B. 266 and 413) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 422, Relating to DNA data maintained for law-enforcement purposes.

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

Com. Sub. for Senate Bill 422 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-2B-2, §15-2B-3, §15-2B-5, §15-2B-6, §15-2B-9, and §15-2B-11 of the Code of West Virginia, 1931, as amended, all relating to DNA that is maintained for law-enforcement purposes in West Virginia; providing updates for the policy of maintaining DNA; updating definitions; adding language to further define and include qualified arrestees in the state DNA database; requiring testing of qualified arrestees on intake; requiring a DNA sample from individuals convicted of a felony on or after March 9, 1995; specifying testing methods; authorizing emergency and legislative rules; specifying expungement for qualified arrestees in certain circumstances; and providing failure to expunge or reasonable delay in expungement will not invalidate an identification, warrant, probable cause to arrest or arrest based upon a database match.

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 422) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Trump, and by unanimous consent, the bill was 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 606, Relating to WV Medical Practice Act.

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

Com. Sub. for Senate Bill 606 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §30-3-14 of the Code of West Virginia, 1931, as amended, relating to reporting requirements under the West Virginia Medical Practice Act; imposing a duty on persons licensed or authorized by the West Virginia Board of Medicine to report certain incidents to the Board; providing reporting deadlines; providing failure to report constitutes unprofessional conduct and grounds for disciplinary action; providing exception to reporting requirement for certain physicians; providing for immunity from civil liability for reports in good-faith and without fraud or malice; providing reports made in bad-faith, fraudulently, or maliciously constitute unprofessional conduct and grounds for disciplinary action; modifying grounds for denial of application and discipline; and providing rule-making authority.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 606) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 610, Relating to duties, powers and responsibilities of DOT Secretary.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 610) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 645, Regulating private schools for students with disabilities.

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

Com. Sub. for Senate Bill 645 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-20A-1, §18-20A-2, §18-20A-3, §18-20A-4, §18-20A-5, §18-20A-6, §18-20A-7, §18-20A-8, §18-20A-9, and §18-20A-10, all relating to regulating schools for students with disabilities; defining terms; limiting application of new article; requiring State Board of Education rules for the management and operation of schools for students with disabilities; prohibiting the opening, operating, or conducting of any school for students with disabilities without a license to operate the school issued by the State Superintendent of Schools; allowing the state superintendent or his or her authorized agents to make unannounced inspections of each school for students with disabilities; requiring application for a license to be filed with the state superintendent; requiring each school to submit and maintain a guaranty instrument payable to the State of West Virginia and conditioned to protect the contractual rights of students and other contracting parties; requiring each school to acquire appropriate insurance; providing that neither the state, state board, or state superintendent shall incur any liability from the actions or inactions of a licensed school or any of its employees; allowing a school for students with disabilities to offer education programs serving only the disability categories specifically indicated on its license; allowing state superintendent to establish fees and the methods for collecting such fees for schools as he or she deems necessary to carry out the provisions of the new article; allowing the state superintendent to refuse to issue or renew a license or allowing the state superintendent to revoke or suspend the license of any school for a violation of any provision of this new article or any rule of the state board promulgated pursuant thereto; providing that any person who opens, operates, or conducts any school for students with disabilities without a license is guilty of a misdemeanor and subject to fine and confinement; and

requiring the state superintendent to maintain a list of schools for students with disabilities holding valid licenses that must be available to the public.

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.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 645) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Committee Substitute for Senate Bill 645.

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 647 (originating in the Committee on Health and Human Resources), Prohibiting discrimination in organ donation process.

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

Com. Sub. for Com. Sub. for Senate Bill 647 (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 §16-65-1, §16-65-2, §16-65-3, and §16-65-4, all relating to prohibiting discrimination based on an individual's

mental or physical disability relating to access to organ transplantation; setting forth legislative findings; defining terms; prohibiting a covered entity from taking certain actions solely on the basis of a qualified individual's mental or physical disability; providing exceptions; providing that it is not medically significant if an individual cannot independently comply with post-transplant medical requirements if the individual has the necessary support system; requiring a covered entity to make reasonable modifications in policies, practices, or procedures; prohibiting a covered entity from denying services; providing an exception; requiring a covered entity to comply with specified federal laws; and providing enforcement mechanisms.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 647) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements.

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

Com. Sub. for Senate Bill 659 (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

§11-16-5a; to amend and reenact §11-16-8 of said code; to amend said code by adding thereto a new section, designated §60-1-3a; to amend and reenact §60-3A-17 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2 and §60-7-6 of said code; to amend and reenact §60-8-6c of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; providing for modification of the 300-foot requirement to 200 feet; clarifying that licensees are not required to place nonintoxicating beer, nonintoxicating craft beer, and alcoholic liquors in a bag after purchase; revising the blood alcohol chart; increasing the minimum mark-up to 112.5 percent for sales to the general public and to 115 percent to licensees; creating a license for a private bakery to produce confections with alcohol added and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a private food truck to conduct food and alcohol sales at various locations when permitted by a municipality, and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resort hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and over; authorizing wine growler sales where wine may be mixed with ice and water to produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance hall for certain private clubs with an age verification system.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 659) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 687, Relating to meetings among county boards of education.

And,

Senate Bill 711, Establishing alternative educational opportunities for elective course credit.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (S. B. 687 and 711) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 726 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11-22 and §61-11-22a of the Code of West Virginia, 1931, as amended, all relating generally to pretrial diversion agreements and deferred prosecution

agreements; listing offenses for which pretrial diversion prohibited; listing offenses where defendant is authorized under certain circumstances and with certain limitations; and setting out procedures for deferred prosecutions.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 726) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator 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

Eng. Com. Sub. for House Bill 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

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 Health and Human Resources.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Health and Human Resources.

The Senate proceeded to the sixth order of business.

Senator Takubo offered the following resolution:

Senate Resolution 43—Recognizing all West Virginia respiratory therapists during the month of March and the outstanding contributions of West Virginia Respiratory Therapists to patient care.

Whereas, Respiratory therapists are the front-line experts in ventilator management and have worked tirelessly to care for patients in critical need before and during the ongoing COVID-19 public health emergency; and

Whereas, Respiratory therapists are the only allied health professionals clinically educated in all aspects of pulmonary medicine and who treat and care for patients with deficiencies and abnormalities of the cardiopulmonary system; and

Whereas, Respiratory therapists' expertise is applicable in many settings, including, but not limited to, various in-patient and out-patient facilities (such as acute care, urgent care, long-term care, subacute care, skilled nursing facilities), physicians' offices, sleep laboratories and clinics, and patients' homes; and

Whereas, Respiratory therapists' invaluable contributions to the health care system and their patients' health and well-being too often go unrecognized; therefore, be it

Resolved by the Senate:

That the Senate recognizes all West Virginia respiratory therapists during the month of March and the outstanding contributions of West Virginia Respiratory Therapists to patient care; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Society for Respiratory Care and the Secretary of the West Virginia Department of Health and Human Resources.

Which, under the rules, lies over one day.

Senator Geffert offered the following resolution:

Senate Resolution 44—Recognizing Leadership Jefferson for its service, dedication, and commitment to Jefferson County.

Whereas, The objective of Leadership Jefferson is to promote knowledge and awareness of the problems, opportunities, and issues facing Jefferson County; and

Whereas, Leadership Jefferson 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 to encourage local participation in the growth of Jefferson County; and

Whereas, The membership of Leadership Jefferson includes individuals from nearly every facet of Jefferson County's business, professional, religious, governmental, educational, civic, the arts, organized labor, and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2022 membership of Leadership Jefferson consists of: Cathy Baldau, Harpers Ferry Park Association; Susan Benzinger, retired attorney; Jennifer Cogle, Jefferson County Schools Teacher of the Year; Jane Crowther, Omega Protein, Inc Refined Oils; Dana DeJarnett, WVU Medicine; Kelly Franklin, Jefferson Day Report Center; Betsy Gambino, WVU Medicine-Berkeley Medical Center; Jeffrey Hynes, City of Charles Town; Darrell Jones, SVG Commercial Cleaning; Harry Longerbeam, River Riders; Gregory Petersen, Jefferson County Community Ministries; Susan Reichel, contractor for Coldwell Banker, Leah Taber, Harpers Ferry National Park; Kim Teska, self-employed; Amanda Wilson, American Public University; Heather McIntyre, Jefferson County Chamber of Commerce; and Andrew Skinner, Skinner Law Firm; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Leadership Jefferson for its service, dedication, and commitment to Jefferson 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 Jefferson.

Which, under the rules, lies over one day.

Senators Takubo and Baldwin offered the following resolution:

Senate Resolution 45—Designating the month of March as American Red Cross month.

Whereas, In times of crisis people in West Virginia come together to care for one another. This humanitarian spirit is part of the foundation of our community and is exemplified by our local American Red Cross volunteers and donors; and

Whereas, In 1881, Clara Barton founded the American Red Cross, turning her steadfast dedication for helping others into a bold mission of preventing and alleviating people's suffering; and

Whereas, Today more than 140 years later, we honor the kindness and generosity of Red Cross volunteers here in West Virginia, who continue to carry out Clara's lifesaving legacy. They join the millions of people across the United States who volunteer, give blood, donate financially, or learn vital life-preserving skills through the Red Cross; and

Whereas, In West Virginia, the contributions of local Red Cross volunteers give hope to the most vulnerable in their darkest hours, whether it is providing emergency shelter, food, and comfort for families devastated by local disasters like home fires and severe weather, donating essential blood for accident and burn victims, heart surgery and organ transplant patients, and those receiving treatment for leukemia, cancer or sickle cell disease; supporting service members and veterans, along with their families and caregivers through the unique challenges of military life; helping to save lives of others with first aid, CPR and other skills, or delivering international humanitarian aid; and

Whereas, Last year in West Virginia with the challenges of the pandemic, the Red Cross assisted nearly 650 families impacted by

the disaster, installed over 1,200 smoke alarms, educated nearly 2,000 students in preparedness education, collected almost 35,000 units of lifesaving blood at over 2,100 blood drives, trained over 18,000 in lifesaving skills such as CPR and first aid, provided almost 3,000 services to over 1,300 military members, veterans, and their families through the efforts of over 600 West Virginia volunteers; and

Whereas, Their work to prevent and alleviate human suffering is vital to strengthening West Virginia's resilience. We dedicate this month of March to all those who continue to advance the noble legacy of the American Red Cross' founder, Clara Barton, who lived by her words, "You must never think of anything except the need, and how to meet it."; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the month of March as Red Cross Month; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the representatives of the American Red Cross, West Virginia Region.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 53, Requesting Office of Miners' Health, Safety, and Training study need for health, safety, and training division in energy producing facilities.

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 Resolution 22, Commemorating 250th anniversary of Berkeley County.

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.

Senate Resolution 41, Designating February 28, 2022, as Recovery Community Day.

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

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

Senate Resolution 42, Recognizing 911 public safety telecommunicators as true "first responders".

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

At the request of Senator Lindsay, 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 eighth order of business.

Eng. Com. Sub. for Senate Bill 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements.

On third reading, coming up in regular order, with the right having been granted on February 25, 2022, for amendments to be received on third reading, was read a third time.

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

On page three, section four, after line fourteen, by adding thereto a new subsection, designated subsection (f), to read as follows:

(f) If any provision of this article jeopardizes the receipt by a political subdivision of any federal grant-in-aid funds or other federal allotment of money, the provisions of this article shall, insofar as the fund is jeopardized, be deemed to be inoperative.

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

Engrossed Committee Substitute for Senate Bill 71 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 71 pass?"

On the passage of the bill, the yeas were: Azinger, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel—11.

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. 71) passed.

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

Eng. Com. Sub. for Senate Bill 71—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5J-1, §21-5J-2, §21-5J-3, and §21-5J-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;

prohibiting political subdivisions from adopting, enforcing, or administering certain local requirements; clarifying effect on prior written agreements; providing that any prohibited local requirement in effect prior to the effective date is void; clarifying effect on lawfully enacted zoning ordinances; clarifying that article does not apply to municipal solid waste or recycling collection programs; clarifying that article does not apply to employees of a political subdivision; clarifying effect on the West Virginia Alcohol and Drug-Free Workplace Act and certain similar requirements; and clarifying that any provision of article that jeopardizes receipt of federal funding to political subdivision is deemed inoperative.

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 420, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments.

On third reading, coming up in regular order, with the right having been granted on February 25, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for Senate Bill 420 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 420 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 420) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. Com. Sub. for S. B. 420) takes effect July 1, 2022.

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 466, Relating to limitations on civil actions or appeals brought by 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, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Brown—1.

Absent: Beach and Boley—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. 466) 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 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 522) 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 536, Relating generally to controlled substance criminal offenses.

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 536 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 536) 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 Grady, and by unanimous consent, the remarks by Senators Phillips and Woodrum as to the passage of Engrossed Committee Substitute for Senate Bill 536 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Senate Bill 574, Relating to WV PEIA.

Having been read a third time on February 25, 2022, 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 582, Creating WV Workforce Resiliency Act.

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

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

Thereupon, 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 33. WEST VIRGINIA WORKFORCE RESILIENCY ACT.

§29-33-1. Short title; purpose.

(a) This article may be known and cited as the West Virginia Workforce Resiliency Act.

(b) It is the purpose of this article to establish an office within the Office of the Governor to coordinate workforce development, job training, education, and related programs and initiatives across agencies and entities to continue to grow West Virginia's workforce and provide greater options for West Virginians seeking work and West Virginia businesses seeking employees.

§29-33-2. West Virginia Workforce Resiliency Office.

(a) It is determined that a state authority is necessary to coordinate and better facilitate efforts toward workforce development, job training, education, and resource management between government agencies, private partners, federal programs, and all other entities working to develop, train, and reinvigorate West Virginia's workforce. Therefore, the West Virginia Workforce Resiliency Office is hereby created.

(b) The West Virginia Workforce Resiliency Office shall be organized within the Office of the Governor:

(1) The West Virginia Workforce Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate;

(2) The West Virginia Workforce Resiliency Officer shall be vested with the authority and duties prescribed to the office within this article; and

(3) The West Virginia Workforce Resiliency Officer shall be a person who has managerial or strategic planning experience in matters relating to workforce development, job training, or related fields.

§29-33-3. Authority of West Virginia Workforce Resiliency Office and West Virginia Workforce Resiliency Officer.

The West Virginia Workforce Resiliency Officer shall:

(a) Coordinate and work with the Commissioner of WorkForce West Virginia; the Secretary of the Department of Economic Development; the Secretary of the Department of Commerce; the Secretary of the Department of Health and Human Resources; the Secretary of the Department of Tourism; the Chancellor of the Higher Education Policy Commission; the President of West Virginia University; the President of Marshall University; the Director of the West Virginia Economic Development Authority; and such other representatives of private and public partners involved in workforce development as the West Virginia Workforce Resiliency Officer may deem necessary, to facilitate and unify efforts for workforce development, job training, and education of West Virginia's workforce.

(b) Assist in the development, implementation, and management of a common application for workforce development, job training, and wrap-around services available across agencies and programs, which shall be established to ensure that West Virginians encounter no wrongdoer when seeking out services and programs that may be available to them.

(c) Advise the Office of the Governor on the status and overall workforce development landscape across the State of West Virginia and assist in developing policies, plans, and procedures that will ensure that state agencies, private partners, and federal

programs are efficiently, effectively, and properly utilized for workforce development across the State of West Virginia.

(d) Propose opportunities for legislative changes to the Office of the Governor that may result in more efficient, effective, and expedient access to programs across the State of West Virginia to improve workforce development.

§29-33-4. Employees of the office.

(a) The West Virginia Workforce Resiliency Officer shall have the power to hire, administer, and manage employees necessary to fulfill its responsibilities:

(1) All employees will be exempt from both the classified services category and the classified-exempt services category as set forth in §29-6-4 of this code;

(2) Employee positions are contingent upon the receipt of necessary federal and/or state funds;

(3) Each employee hired shall be deemed an at-will employee who may be discharged or released from his or her respective position without cause or reason;

(4) Due to the at-will employment relationship with the office, its employees may not avail themselves of the state grievance procedure as set forth in §6C-2-1 *et seq.* of this code;

(5) Employees may participate in the PEIA, PERS, workers' compensation, and unemployment compensation programs, or their equivalents; and

(6) All employees and officers of the West Virginia Workforce Resiliency Office who are entrusted with funds or property shall execute surety bonds.

(b) The West Virginia Workforce Resiliency Officer will set appropriate salary rates for employees equivalent to a competitive wage rate necessary to support a specific mission.

ARTICLE 34. STATE RECOVERY AND HOPE ACT.**§29-34-1. Short title; legislative findings; purpose.**

(a) This article may be known and cited as the Recovery and Hope Act.

(b) The West Virginia Legislature finds that:

(1) The substance use disorder epidemic in the State of West Virginia has created a public health crisis, an economic crisis, and a social services crisis for our state;

(2) The State of West Virginia, through its various governmental branches and state agencies, offers several programs to assist the citizens of West Virginia battling substance use disorder, likewise, there are numerous programs offered by the federal government, local governments, and private entities to combat this epidemic; and

(3) Creation of the State Recovery and Hope Office is necessary to further the positive results of the Jobs and Hope Program implemented to date and to facilitate and coordinate the various programs offered through the State of West Virginia by and with the assistance of the legislative branch, the judicial branch, various federal agencies, local governments, community advocates, and private sector partners related to the prevention, treatment, and reduction of substance use disorder.

(c) It is the purpose of this article to create an office under the Office of the Governor to focus the comprehensive and coordinated statewide approach to provide West Virginians in need of treatment for substance use disorder with the support and assistance necessary to help provide assistance to combat addiction, as well as to assist those in recovery by providing them opportunities to obtain career training and to ultimately secure meaningful employment, thereby further bettering our people, our communities, and economic opportunities in this state. The office created by this article shall utilize the personnel and resources of the Department of Health and Human Resources and relevant agencies thereunder to the greatest extent practicable.

§29-34-2. State Recovery and Hope Office.

(a) The State Recovery and Hope Office is hereby created. The office shall be organized within the Office of the Governor. The office will serve as the coordinating agency of recovery efforts.

(b) The State Recovery and Hope Officer shall be appointed by the Governor with the advice and consent of the Senate.

(c) The State Recovery and Hope Officer shall be vested with the authority and duties prescribed to the office within this article.

(d) The State Recovery and Hope Officer shall be a person who has:

(1) Managerial or strategic planning experience in matters relating to substance use disorder treatment, recovery, and/or transition into the workforce; and

(2) Be thoroughly knowledgeable in matters relating to substance use disorder treatment, recovery, and matters relating thereto.

(e) The State Recovery and Hope Office shall be tasked with coordinating efforts toward the provision of needed assistance for those in treatment for substance use disorder, toward transitioning those in recovery with the opportunity to obtain career training, and toward ultimately securing meaningful employment.

§29-34-3. Authority of State Recovery and Hope Office and State Recovery and Hope Officer.

The State Recovery and Hope Office will coordinate the state's efforts to assist those experiencing substance use disorder in their recovery and transition into the workforce. The State Recovery and Hope Officer shall serve as the primary representative of the Governor, and the agencies and departments of the state shall provide assistance, information, data, and/or resources to the State Recovery and Hope Office as may be requested from time to time. The State Recovery and Hope Officer will assist and advise the Governor on all recovery and workforce training issues for this

population, and will serve as a liaison between the Governor's office and all other parties, whether state, federal, local, or private to further the purposes of this article. The State Recovery and Hope Officer will:

(1) Coordinate all planning and implementation efforts relating to substance use disorder treatment, recovery, and transition into the workforce;

(2) Coordinate an annual review of plans relating to substance use disorder treatment, recovery, and transition into the workforce;

(3) Recommend legislation to better facilitate the implementation of recovery efforts;

(4) Report to legislative committees, as called upon to do so;

(5) Establish and facilitate regular communication between federal, state, local, and private sector agencies and organizations to further recovery efforts;

(6) Receive resources, monetary or otherwise, from any other governmental entity or private source and disburse those resources to effectuate the purposes of this article;

(7) Execute cooperative agreements, where appropriate;

(8) Contract, where appropriate, on behalf of the State Recovery and Hope Office, with the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia, and its agencies and instrumentalities, municipalities, public bodies, private corporations, partnerships, associations, and individuals;

(9) Hire necessary employees at an appropriate salary equivalent to a competitive wage rate;

(10) Enroll appropriate employees in the Public Employees Retirement System, the Public Employees Insurance Agency, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the State Recovery and Hope Office,

through the receipt of federal or state funds, or both, pays the required employer contributions;

(11) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities;

(12) Utilize the personnel and resources of the Department of Health and Human Resources to the greatest extent practicable, and have the ability to draw upon other departments, divisions, agencies, and all other subdivisions of the state for research and input in fulfilling the requirements of this article, or to facilitate the implementation of the purposes of this article, and its requests are to have priority over other such requests;

(13) Participate in the interdepartmental transfer of permanent state employees, as if he or she were a department secretary, under the provisions of §5F-2-7 of this code;

(14) Notwithstanding any other provision of this code to the contrary, acquire legal services that are necessary, including representation of the office, its employees, and officers before any court or administrative body from the Office of the Attorney General, who shall provide such legal assistance and representation;

(15) Take all other actions necessary and proper to effectuate the purposes of this article; and

(16) The office shall have any other additional authority, duties, and responsibilities as prescribed by the Governor to effectuate the purposes of this article. Due to the at-will employment relationship with the office, its employees may not avail themselves of the state grievance procedure as set forth in §6C-2-1 *et seq.* of this code.

§29-34-4. Employees.

(a) The State Recovery and Hope Officer shall have the power to hire, administer, and manage employees, but only to the extent necessary to fulfill the office's responsibilities.

(1) Any and all employees will be exempt from both the classified services category and the classified-exempt services category as set forth in §29-6-4 of this code.

(2) Employee positions are contingent upon the receipt of the necessary federal or state funds, or both.

(3) Any employee hired shall be deemed an at-will employee who may be discharged or released from his or her respective position without cause or reason.

(4) Any employee may participate in the Public Employees Insurance Agency, the Public Employees Retirement System, and workers' compensation and unemployment compensation programs, or their equivalents.

(5) Any employees and officers of the State Recovery and Hope Office who are entrusted with funds or property shall execute surety bonds.

(b) The State Recovery and Hope Officer will set appropriate salary rates for any employees equivalent to a competitive wage rate necessary to support a specific mission.

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 582 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 582) passed.

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

Eng. Com. Sub. for Senate Bill 582—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, and §29-33-4; and to amend said code by adding thereto a new article, designated §29-34-1, §29-34-2, §29-34-3, and §29-34-4, all relating to creating the West Virginia Workforce Resiliency Act and Recovery and Hope Act; establishing the West Virginia Workforce Resiliency Office in the Office of the Governor; establishing the position of the West Virginia Workforce Resiliency Officer; setting forth the authority and duties of the West Virginia Workforce Resiliency Officer; allowing for the West Virginia Workforce Resiliency Officer to hire staff; creating the State Recovery and Hope Office, and providing powers thereof; providing for the appointment of the State Recovery and Hope Officer; and authorizing the State Recovery and Hope Officer to act.

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

Eng. Senate Bill 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 603) 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 638, Changing hearing and notice provisions for failing or distressed public utilities.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Roberts—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 638) 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 648, Relating to Cable Television Systems Act.

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. Com. Sub. for Senate Bill 698, Relating to number and selection of members for Governor's Veterans Council.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Roberts—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. 698) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Roberts—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. 698) 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 701, Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education 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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 701) passed with its title.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:34 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:11 p.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Senate Bill 713, Removing statutory limit for Environmental Laboratory Certification 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 713) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 713) 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 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee.

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 714 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—64.

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. 714) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 714) 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 4126, Authorizing certain agencies of the Department of Health and Human Resources 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4126) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (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. Com. Sub. for H. B. 4126) takes effect from passage.

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

Eng. House Joint Resolution 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

On third reading, coming up in regular order, with the right having been granted on February 24, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Weld, the following amendment to the resolution was reported by the Clerk and adopted:

By striking out everything after line 12 and inserting in lieu thereof the following:

ARTICLE XII. EDUCATION.

§2. Supervision of free schools.

Subject to the provisions of this section, The the general supervision of the free schools of the State is shall be vested in the West Virginia Board of Education which shall perform the such duties as may be prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, ~~except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years, respectively.~~ No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools

who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall ~~have such powers and shall perform the such~~ duties as ~~may be~~ prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered "Amendment No. 1" and designated as the "Education Accountability Amendment" and the purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection."

Engrossed House Joint Resolution 102, as just amended, was then put upon its adoption.

Pending discussion,

The question being "Shall Engrossed House Joint Resolution 102 be adopted?"

On the adoption of the resolution, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Romano, Stollings, and Woelfel—11.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. H. J. R. 102) adopted, as follows:

Eng. House Joint Resolution 102—Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article XII thereof, relating to education and the supervision of free schools; clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection; numbering and 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 2022, which proposed amendment is that section 2, article XII thereof, be amended and reenacted to read as follows:

ARTICLE XII. EDUCATION.

§2. Supervision of free schools.

Subject to the provisions of this section, The the general supervision of the free schools of the State is shall be vested in the West Virginia Board of Education which shall perform the such duties as may be prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, ~~except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years, respectively.~~ No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor

except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall ~~have such powers and shall perform the such~~ duties as ~~may be~~ prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered "Amendment No. 1" and designated as the "Education Accountability Amendment" and the purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection."

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 5:45 p.m., the Senate recessed.

The Senate reconvened at 5:55 p.m. and proceeded to the ninth order of business.

Com. Sub. for Senate Bill 64, Allowing county commissions to impose amusement tax.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 232, Relating to punishment for third offense felony.

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 424, Relating generally to 2022 Farm Bill.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 590, Clarifying that tenancy includes persons who reside in sober living home.

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 662, Relating to creation, expansion, and authority of resort area district.

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

Senate Bill 721, Relating to municipalities required to be represented on county authority boards.

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 4084, Relating to advanced recycling.

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

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

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

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-2. Definitions.

Unless the context clearly requires a different meaning, as used in this article the terms:

"Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis, and other similar technologies. The recycled products produced at advanced recycling facilities include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling shall not be considered solid waste management or solid waste disposal.

"Advanced recycling facility" means a facility that receives, stores, and converts post-use polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling facility

is a manufacturing facility subject to applicable department manufacturing regulations for air, water, and land use. Advanced recycling facilities shall not be considered solid waste facilities.

(1) "Agronomic rate" means the whole sewage sludge application rate, by dry weight, designed:

(A) (1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation on the land; and

(B) (2) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

(2) "Applicant" means the person applying for a commercial solid waste facility permit or similar renewal permit and any person related to such person by virtue of common ownership, common management, or family relationships as the director may specify, including the following: Spouses, parents, and children, and siblings.

(3) "Approved solid waste facility" means a solid waste facility or practice which has a valid permit under this article.

(4) "Back hauling" means the practice of using the same container to transport solid waste and to transport any substance or material used as food by humans, animals raised for human consumption, or reusable item which may be refilled with any substance or material used as food by humans.

(5) "Bulking agent" means any material mixed and composted with sewage sludge.

"Catalytic cracking" is a manufacturing process through which post-use polymers are heated and melted in the absence of oxygen and then processed in the presence of a catalyst to produce valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

(6) "Class A facility" means a commercial solid waste facility which handles an aggregate of between ~~ten thousand~~ 10,000 and ~~thirty thousand~~ 30,000 tons of solid waste per month. Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate ~~tons~~ tonnage of solid waste handled per month by such landfills exceeds ~~nine thousand nine hundred ninety nine~~ 9,999 tons of solid waste per month.

(7) "Commercial recycler" means any person, corporation, or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least ~~seventy~~ 70 percent by weight of the materials coming into the commercial recycling facility.

(8) "Commercial solid waste facility" means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing, or composting of solid wastes created by that person or such person and other persons on a cost-sharing or nonprofit basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation, and similar applications.

(9) "Compost" means a humus-like material resulting from aerobic, microbial, or thermophilic decomposition of organic materials.

(10) "Composting" means the aerobic, microbial, or thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material.

(11) "Commercial composting facility" means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or nonprofit basis

and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

(12) "Cured compost" or "finished compost" means compost which has a very low microbial or decomposition rate which will not reheat or cause odors when put into storage and that has been put through a separate aerated curing cycle stage of ~~thirty~~ 30 to ~~sixty~~ 60 days after an initial composting cycle or compost which meets all regulatory requirements after the initial composting cycle.

(13) "Department" means the Department of Environmental Protection.

"Depolymerization" means a manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons.

(14) "Energy recovery incinerator" means any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity, or any other use not specified herein.

"Gasification" means a manufacturing process through which recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons that are returned to economic utility in the form of raw materials and products.

"Hydrogenation" is a manufacturing process through which hydrogen is used to remove impurities from post-use polymers or recovered feedstock to enable further processing into valuable raw materials and intermediate and final products, including, but not

limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

(15) "Incineration technologies" means any technology that uses controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation, or any other method by which solid waste is incinerated.

(16) "Incinerator" means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

(17) "Landfill" means any solid waste facility used for the disposal of solid waste on or in the land for the purpose of permanent disposal. Such facility is situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located.

(18) "Materials recovery facility" means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

(19) "Mature compost" means compost which has been produced in an aerobic, microbial, or thermophilic manner and does not exhibit phytotoxic effects.

(20) "Mixed solid waste" means solid waste from which materials sought to be reused or recycled have not been source-separated from general solid waste.

(21) "Mixed waste processing facility" means any solid waste facility at which materials are recovered from mixed solid waste through manual or mechanical means for purposes of reuse, recycling, or composting.

~~(22)~~ "Municipal solid waste incineration" means the burning of any solid waste collected by any municipal or residential solid waste disposal company.

~~(23)~~ "Open dump" means any solid waste disposal which does not have a permit under this article, or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

~~(24)~~ "Person" or "persons" means any industrial user, public or private corporation, institution, association, firm, or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

"Post-use polymer" means a plastic to which all the following apply:

(1) The plastic is derived from any industrial, commercial, agricultural, or domestic activities;

(2) It is not mixed with solid waste or hazardous waste onsite or during processing at the advanced recycling facility;

(3) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and chemical feedstocks, other basic hydrocarbons, raw materials, or other intermediate products or final products using advanced recycling;

(4) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities (e.g., paper labels and metal rings); and,

(5) The plastic is processed at an advanced recycling facility or held at such facility prior to processing.

~~(25)~~ "Publicly owned treatment works" means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw domestic, industrial, or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort, or property of any of the inhabitants of this state before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.

"Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons, that are returned to economic utility in the form of raw materials or products.

"Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(1) Post-use polymers;

(2) Materials for which the United States Environmental Protection Agency has made a nonwaste determination pursuant to 40 C.F.R. 241.3(c), or has otherwise determined are feedstocks and not solid waste;

(3) Recovered feedstock does not include unprocessed municipal solid waste;

(4) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

~~(26)~~ "Recycling facility" means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: *Provided*, That mixed waste recovery facilities, sludge processing

facilities, and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of this article, ~~article fifteen a of this chapter and article four, chapter twenty two c of this code~~ §22-15A-1 et seq. and §22C-4-1 et seq. of this code.

(27) "Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from sewage sludge. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

(28) "Sewage sludge processing facility" is a solid waste facility that processes sewage sludge for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic, microbial, and anaerobic digestion.

(29) "Secretary" means the Secretary of the Department of Environmental Protection or such other person to whom the ~~Secretary~~ secretary has delegated authority or duties pursuant to ~~article one of this chapter~~ §22-1-1 et seq. of this code.

(30) "Sludge" means any solid, semisolid, residue, or precipitate, separated from or created by a municipal, commercial, or industrial waste treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar origin.

(31) "Solid waste" means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration; sludge from a waste treatment plant; water supply treatment plant or air pollution control facility; and other discarded materials, including offensive or unsightly matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities but does not include solid or dissolved material in sewage or solid or

dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under ~~article five a of this chapter~~ §22-5A-1 et seq. of this code, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under ~~article five e of this chapter~~ §22-5E-1 et seq. of this code or refuse, slurry, overburden, or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage, and recovery of coal, oil, and gas, and other mineral resources placed or disposed of at a facility which is regulated under ~~chapter twenty two, twenty two a or twenty two b~~ Chapter 22, Chapter 22A, or Chapter 22B of this code, so long as placement or disposal is in conformance with a permit issued pursuant to such chapters, or post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at such facility prior to conversion.

~~(32)~~ "Solid waste disposal" means the practice of disposing of solid waste including placing, depositing, dumping, throwing, or causing any solid waste to be placed, deposited, dumped, or thrown.

~~(33)~~ "Solid waste disposal shed" means the geographical area which the solid waste management board designates and files in the state register pursuant to ~~section eight, article twenty six, chapter sixteen~~ §16-26-8 of this code.

~~(34)~~ "Solid waste facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities, and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with ~~section twenty of this article~~ §22-15-20 of this code . Such facility shall be deemed to be situated, for purposes of this article, in the county where the majority of the spatial area of such facility

is located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of ~~article twenty-three, chapter seventeen §17-23-1 et seq.~~ of this code, is not a solid waste facility and an advanced recycling facility is not a solid waste facility.

(35) "Solid waste facility operator" means any person or persons possessing or exercising operational, managerial, or financial control over a commercial solid waste facility, whether or not such person holds a certificate of convenience and necessity or a permit for such facility.

"Solvolysis" means a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be separated. The products of solvolysis include monomers, intermediates, valuable chemicals, and raw materials. The process includes, but is not limited to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

(36) "Source-separated materials" means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

The bill (Eng. Com. Sub. for H. B. 4084), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4491, To establish requirements for carbon dioxide sequestration.

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.

Com. Sub. for Com. Sub. for Senate Bill 181, Creating Core Behavioral Health Crisis Services System.

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

Com. Sub. for Senate Bill 205, Expanding PEIA Finance Board membership.

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

Senate Bill 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

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

Senate Bill 456, Requiring county boards of education to develop seizure action plans.

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 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

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

Com. Sub. for Senate Bill 518, Allowing nurses licensed in another state to practice in WV.

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 530, Encouraging public-private partnerships in transportation.

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

Com. Sub. for Senate Bill 558, Increasing members of WV Parole Board.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Finance.

Senate Bill 617, Relating to qualifications for members of boards, commissions, and other entities.

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

Com. Sub. for Senate Bill 652, Requiring hospitals to receive patients transported to them by EMS providers.

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

Com. Sub. for Senate Bill 653, Relating to public higher education governance.

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

Com. Sub. for Senate Bill 655, Authorizing tactical medical professional to carry firearm with specific training requirements.

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

Com. Sub. for Senate Bill 656, Providing tax credit for certain corporations with child-care facilities for employees.

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

Com. Sub. for Senate Bill 668, Clarifying eligibility for probation and parole conditions for sex offenses.

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

Senate Bill 680, Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act.

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

Senate Bill 693, Clarifying meeting voting requirements for political party executive committees.

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

Senate Bill 703, Relating to controlled substances schedule.

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

Com. Sub. for Senate Bill 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

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 Karnes, Smith, and Phillips.

At the request of Senator Smith, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Steven H. Hively, a coal miner who was killed in a mining accident in McDowell County earlier today.

Without objection, the Senate returned to the third order of business.

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

Eng. Rev. Com. Sub. for Senate Bill 221, Establishing occupational therapy compact.

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 452, Permitting civil remedies for unauthorized disclosure of intimate images.

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 4331—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-27-4a, relating to the federal Urban Mass Transportation Act of 1964; and ensuring the definition of "deduction" is changed to preserve federal funding.

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 4492—A Bill to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-5, §17-16B-6, §17-16B-7, §17-16B-7a, §17-16B-7b, §17-16B-8, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19, §17-16B-20, §17-16B-21, and §17-16B-22 of the Code of West Virginia, 1931, as amended; to repeal §17-16C-1, §17-16C-2, §17-16C-3, and §17-16C-5 of the Code of West Virginia, 1931, as amended; to repeal §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, §29-2A-8, §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, and §29-2A-20 of said code; to repeal §29-18-1, §29-18-2, §29-18-3, §29-18-4, §29-18-4a, §29-18-5, §29-18-6, §29-18-7, §29-18-8, §29-18-9, §29-18-10, §29-18-11, §29-18-12, §29-18-13, §29-18-14, §29-18-15, §29-18-16, §29-18-17, §29-18-18, §29-18-19, §29-18-20, §29-18-21, §29-18-22, §29-18-23, §29-18-24, and §29-18-25 of said code; and to amend said code by adding thereto a new article, designated §17-16F-1, §17-16F-2, §17-16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7, §17-16F-8, §17-16F-9, §17-16F-10, §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-15, §17-16F-16, §17-16F-

17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22, §17-16F-23, §17-16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-16F-30, §17-16F-31, §17-16F-32, §17-16F-33, and §17-16F-34, all relating to creating the Division of Multimodal Transportation and combining the powers and duties and eliminating certain references to the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission; providing for legislative findings and creation of the division; transferring employees, equipment, assets, liabilities, contracts, agreements, functions and duties to the division or its sections; providing for all property currently held by the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission to be transferred to the division; authorizing the Secretary of the Department of Transportation to appoint the commissioner; establishing general powers and duties of the commissioner; defining terms; establishing the powers and duties of the division generally; requiring the division to promote, supervise and support safe, adequate and efficient transportation, preserve rail, water and airway facilities and promote economic development and tourism; authorizing division to work cooperatively with similar entities within and without the state; providing for siting, development and operation of facilities; authorizing employment of trained and qualified staff and consultants and compensating therefor; providing the right to enter into contracts and agreements; authorizing acquisition of various types and interests in property to be held in the name of the state; authorizing use of eminent domain; authorizing acquisition and disposal of property by various means; authorizing interagency cooperation; authorizing division to act on behalf of the state in planning, financing, development, construction and operation of port, railroad and aeronautic projects or facilities; reporting annually to Legislature on status of projects, operations, finances and related information; authorizing study and assessment of state transportation needs; authorizing use of various financing options including issuing revenue bonds and receipt of grants and loans; authorizing division to make grants and loans to governmental agencies and persons for multimodal transportation projects; permitting collection of reasonable fees and charges connected to making and servicing loans, notes, bonds and other

obligations; granting rule-making authority to the division; continuing all rules, policies and orders of the combined entities until revised and reissued by the division; requiring strategic plan and reports to the Governor and the Legislature; requiring collection and analysis of shipping through state ports; providing for confidentiality of collected information and providing criminal penalty for violation; providing that division employees may not have direct or indirect financial interest in contracts, sale of property of the division and providing criminal penalty for violation; providing that activities of division are for public purpose; authorizing the division to use certain property or facilities of a public utility, common carrier, public road or railroad for certain public projects; requiring the division to relocate any such property or facilities; providing for rules regarding relocation or removal of railroad or public utility located on division property; requiring the division to pay for said relocation or removal; encouraging participation of private enterprise in construction and operation of facilities; authorizing lease back to division; authorizing development of foreign trade zones, free trade zones, ports of entry and customs zones; providing for specific duties related to port projects; authorizing the division to act on behalf of the state in developing, operating, improving and maintaining ports; authorizing the division to coordinate and cooperate with other port entities; creating the West Virginia Multimodal Operations Fund and transference of funds and liabilities of the West Virginia Public Port Authority Operations Fund; providing for specific duties related to rail projects; authorizing the exercise of powers necessary to qualify for federal subsidies; authorizing various means to carry out rail projects that are consistent with state plan with other entities; providing authority for the division to establish, fund, construct, reconstruct, acquire, repair, replace, operate, maintain and make available to other entities railroad projects; providing that research and development of railroads may be conducted; providing that contracts may be entered into to acquire various rolling stock, equipment or trackage and providing the requirements therefor; providing for the authority to enter into agreements that are beneficial to railroad projects notwithstanding other code provisions, including the authority to reject bids; authorizing division to purchase various types of insurance;

authorizing the collection of fees for use of rail projects; providing for the administration and coordination of a state plan, including the distribution of federal subsidies; providing for investigation, research, promotion and development with public participation; authorizing the provision of fiscal assurances and adoption of accounting procedures necessary to continue subsidies; authorizing compliance with applicable federal regulations; authorizing all actions necessary to maximize federal assistance for rail subsidies; providing powers necessary to coordinate with the Maryland Transit Administration for continued operation in the state, including negotiation and contracting authority; providing that any commuter rail operation agreement will meet certain service standards; providing that any track access fees to be paid pursuant to the agreement shall be paid from the West Virginia Commuter Rail Access Fund; authorizing sale or transfer of interest in rail property with federal approval when required; authorizing assistance to entities seeking federal railroad service certification, including the provision of any necessary assurances or guarantees; authorizing division to retain attorney or others to title ownership of rail properties within the state; requiring rail properties offered for sale within the state to be offered first to the state; providing that division may acquire railroad rights in other states and may cooperate with other states in so purchasing any rail properties; providing for the division to give consideration to county or municipality interest in acquiring abandoned property interest and providing for the division to acquire any such abandoned property for subsequent conveyance to a county or municipality; authorizing the division to apply for and utilize federal funds or loans in carrying out its purposes of this article; authorizing the purchase of any railroad rolling stock, equipment and machinery necessary for the operation and maintenance of state rail properties and authorizing contracts with the Division of Highways for maintenance or purchase of vehicles; authorizing maintenance, rebuilding or relocation of state rail properties and authorizing expenditures for the modernization, rebuilding and relocation of any rail properties owned by the state or private carrier; providing for contracting with domestic or foreign entities to provide, maintain or improve rail transportation service on state rail properties; providing for transfer of rail properties to other entities

within the state when permitted by the Governor; authorizing the division to resolve conflicts when multiple entities want to utilize the same rail property; providing for proceeds from the sale of state rail property to be deposited in Railroad Maintenance Fund; terminating Railroad Maintenance Authority Fund and creating a Railroad Maintenance Fund for proceeds and expenditures related to division's purpose; authorizing expenditure from any fund for study of proposed rail projects and use of funds from Railroad Maintenance Fund for study and engineering costs; authorizing the issuance of railroad maintenance revenue bonds and notes for costs of rail projects, including issuance of renewal notes and bond refund, with aggregate amount of all issues of bonds and notes outstanding at one time not exceeding amount capable of being serviced by revenues received; providing that issues of bonds or notes are negotiable instruments and are obligations of the division and are payable out of the revenues which are pledged for such payment; providing for maturity date, terms of execution, sale, redemption and delivery; authorizing the establishment of various conditions necessary to secure sufficient funds to protect bonds or notes; providing that person executing bonds or notes is not personally liable therefor; providing for trust agreement to secure bonds issued by division and creating conditions therefor, not including mortgage of any rail project; allocating expenses of bond issuance or trust agreement to rail projects; providing for civil action for bondholders seeking to enforce rights granted; providing that bonds are payable from division revenues and are not a debt of state or political subdivision; restricting division from incurring debt on behalf of state or political subdivision; authorizing use of proceeds from bonds to carry out division's powers and prohibiting commingling with other funds; providing for the investment of excess funds by West Virginia State Board of Investments; authorizing division to collect rents or revenues for use of rail projects; providing for cooperation with other governmental agencies to effect acquisition of rail project or bond issuance; authorizing division to maintain rail projects in good repair; providing that railroad maintenance bonds are lawful investments for various entities; continuing West Virginia Commuter Rail Access Fund which is administered by division commissioner; requiring division to establish a state rail plan that complies with

federal requirements for funding; providing specific powers and duties for director of public transit; designation of public transit as the agency of the state responsible for administering all federal and state programs related to public transportation; providing for assistance and cooperation of other state agencies with all multimodal sections; providing for specific duties related to aeronautics projects; authorizing division to advance development of aeronautics in cooperation with municipalities; authorizing rules necessary for public safety related to airports and aeronautics; authorizing division to fund grants for public airport authorities; authorizing division to receive federal funding to support airports or air navigation facilities; providing for procedures and conditions for use of federal funds; requiring a federal license to operate an aircraft; allowing for the use of state and municipal facilities and services; disposing of fees collected under this code section and providing a severability clause.

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 4634—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-17-1, §21-17-2, §21-17-3, §21-17-4, §21-17-5, §21-17-6, §21-17-7, §21-17-8, §21-17-9, §21-17-10, §21-17-11, and §21-17-12; to amend said code by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, §29-33-4, §29-33-5, §29-33-6, §29-33-7, §29-33-8, §29-33-9, §29-33-10, §29-33-11, and §29-33-12; all relating to occupational licensing or other authorization to practice; providing for definitions; providing for an application method for persons with a valid license in another state to be licensed in this state; providing that a person applying for licensure in this state has worked in the licensed occupation for at least one year; providing for other criteria a person must satisfy when applying for licensure in this state; establishing that an applicant seeking licensure in this state not have ever had a license revoked or suspended in another state; providing that an applicant seeking licensure in this state not have any pending investigations

or disciplinary proceedings in another state; providing that the boards in every state where a person is licensed hold the applicant in good standing for licensure in this state; providing that an applicant pay all applicable fees; providing that an applicant meet all state bonding requirements for licensure in this state; providing for an application fee that may be assessed by the board; providing for 60 days for a board to take action on a completed application; providing for an appeal mechanism for a person to appeal any decision of a board relating to occupational licensure; providing for state law preemption against any township, municipality, county, or other government to regulate occupational licensure; providing for certain exempted professions; and providing for rulemaking authority to any board affected to carry out the provisions of the article.

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 4675—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17C-24-1 and §17C-24-2, all relating to autonomous delivery vehicles; authorizing operation of low-speed autonomous delivery vehicle on certain streets and roads; authorizing operation of low-speed autonomous delivery vehicle on streets or roads with posted speed limit of up to a specified number of miles per hour under specified conditions.

Referred to the Committee on Economic Development.

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 4743—A Bill to amend and reenact §16A-6-3 of the Code of West Virginia, 1931, as amended, all relating to security and surveillance requirements of medical cannabis organization facilities.

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 4773—A Bill to amend and reenact §24D-1-14 and §24D-1-17 of the Code of West Virginia, 1931, as amended, all relating to the Public Service Commission; the Cable Television Systems Act; adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

At the request of Senator Takubo and by unanimous consent, the bill was taken up for immediate consideration, reference to a committee dispensed with, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and the adoption as amended, of

House Concurrent Resolution 30, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and the adoption as amended, of

House Concurrent Resolution 59, Warrant Officer James G. Bosley Memorial Bridge.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

February 28, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for House Bill No. Three Thousand Twelve (3312), which was presented to me on February 22, 2022.

You will note that I have approved this bill on February 28, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate proceeded to the fourth order of business.

Senator Tarr, 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 29, Providing fee for processing of criminal bonds.

Now on second reading, having been read a first time and referred to the Committee on Finance on February 25, 2022;

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

Respectfully submitted,

Eric J. Tarr,
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 434 (originating in the Committee on Government Organization), Updating authority to airports for current operations.

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

Com. Sub. for Com. Sub. for Senate Bill 434 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §8-28-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-29-1, §8-29-3, §8-29-8, §8-29-9, §8-29-12, §8-29-17, and §8-29-20 of said code; to amend said code by adding thereto a new section, designated §8-29-8a; and to amend and reenact §8-29B-2, §8-29B-3, and §8-29B-5 of said code, relating generally to airport authorities and operations; increasing the criminal fine for vehicular and pedestrian traffic near airports;

authorizing airport authorities to establish and operate international and ancillary airports; defining terms; clarifying that certain airports may be established near research or business parks; expanding the powers and authority of airport authorities related to acquisition and use of property; establishing a procedure for the disposition of derelict or abandoned aircraft; providing airport authorities with a lien on a derelict or abandoned aircraft; providing for sale and disposal of abandoned and derelict aircraft and purchaser's ownership rights; authorizing airport authorities to promulgate rules to control vehicular and pedestrian traffic; increasing criminal fines for violations of certain airport rules and regulations; providing airport authorities with the right of immediate entry following eminent domain; and expanding areas over which airport police have jurisdiction.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo requested unanimous consent that the bill (Com. Sub. for Com. Sub. for S. B. 434) contained in the preceding report from the Committee on the Judiciary be taken up for immediate consideration.

Which consent was not granted, Senator Plymale objecting.

Senator Takubo then moved that the bill (Com. Sub. for Com. Sub. for S. B. 434) contained in the preceding report from the Committee on the Judiciary be taken up for immediate consideration.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put.

The result of the voice vote being inconclusive, Senator Plymale demanded a division of the vote.

A standing vote being taken, there were 26 "yeas" and 6 "nays".

Whereupon, Senator Blair (Mr. President) declared Senator Takubo's aforestated motion had prevailed.

Thereafter, the bill (Com. Sub. for Com. Sub. for S. B. 434) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 498, Creating Anti-Racism Act of 2022.

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

Com. Sub. for Senate Bill 498 (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 §18-2-9b; and to amend said code by adding thereto a new section, designated §18B-14-4, all relating to prohibiting a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by an employee of certain specified concepts; prohibiting a state institution of higher education or any of its employees from requiring a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that certain specified concepts are factual and accurate or must be held as a belief of the student or employee; defining terms; recognizing that state institutions of higher education prohibit discrimination and have an obligation to protect the right to free speech; limiting

prohibitions; establishing public elementary and secondary school complaint and appeal procedures for alleged violations and complaint reporting procedures; requiring each campus to report to the Higher Education Policy Commission or the Council for Community and Technical College Education a description of any violations; and requiring certain information on the complaints filed and reported violations to be reported to the Legislative Oversight Commission on Education Accountability.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 498) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Senate Bill 608, Relating to assessment and taxation of real property occupied by certain family members.

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

Com. Sub. for Senate Bill 608 (originating in the Committee on Government Organization)—A Bill to amend and reenact §11-4-3 of the Code of West Virginia, 1931, as amended, relating to assessment of real property; providing that an immediate family member or former spouse of the owner of real property who occupies the real property of the owner exclusively for residential

purposes be included in class two for assessment and taxation purposes; and further defining "immediate family member".

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,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 608) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 632, Transferring Office of Emergency Medical Services from DHHR to Department of Homeland Security.

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

Com. Sub. for Senate Bill 632 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-1, §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a, §16-4C-6b, §16-4C-8, §16-4C-8a, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-14, §16-4C-15, §16-4C-16, §16-4C-17, §16-4C-18, §16-4C-20, §16-4C-21, §16-4C-23, and §16-4C-24 of said code; and to amend said code by adding thereto a new section, designated §16-4C-25, all relating to making Office of Emergency Medical Services, including all affiliated

councils, boards, and entities, an independent office within Executive Branch of state government; setting effective date of July 1, 2022; providing that Governor shall appoint Director of Office of Emergency Medical Services at salary established by Governor; maintaining all authorities, powers, funds, and duties, and affiliated boards, councils, or commissions of Office of Emergency Medical Services; ensuring legislative rules remain in effect; directing Secretary of the Department of Health and Human Resources and Commissioner of Bureau for Public Health to work with Director of the Office of Emergency Medical Services to ensure smooth transition; requiring Office of Emergency Medical Services to utilize to fullest extent practicable existing resources of the Department of Health and Human Resources for functions necessary for operation of office; and making technical corrections to recognize the transfer elsewhere in code.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 649, Requiring communication providers providing service or obtaining WV area codes to register with PSC.

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

Com. Sub. for Senate Bill 649 (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 §24-2-1r, relating to requiring certain voice-over internet protocol service providers delivering service in West Virginia or obtaining West Virginia area codes telephone numbers to register with the Public Service Commission; providing timelines to register; providing for a registration form; requiring voice-over internet protocol providers to submit certain information to the Public Service Commission; requiring voice-over internet protocol providers to keep information current; providing definitions; making requirements applicable to certain voice-over internet service providers after effective date of section; and limiting Public Service Commission jurisdiction to certain voice-over internet protocol service providers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 649) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 671, Modernizing regulation of car-sharing services in WV.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 25, 2022;

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 686, Clarifying use of notes and bonds of WV Housing Development Fund.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 686) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 697, Modifying and clarifying elements of kidnapping and unlawful restraint.

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

Com. Sub. for Senate Bill 697 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-14a and §61-2-14g of the Code of West Virginia, 1931, as amended, all relating generally to the offenses of kidnapping and unlawful restraint; clarifying the distinct elements of the separate offenses; removing redundant language; and making grammatical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 697) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 727 (originating in the Committee on the Judiciary)—A Bill amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §60-3-26, relating to directing the Commissioner of the Alcoholic Beverage Control Administration to discontinue the state's acquisition of alcoholic liquors manufactured in the Russian Federation or by an person or entity located therein; establishing duration of the ban; authorizing the commissioner, at the Governor's direction, to sell or auction alcoholic liquors made in the Russian Federation or under the authority of a business located within the federation with the proceeds going to charitable organizations assisting the people of Ukraine.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 727) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 728 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-12-2 of the Code of West Virginia, 1931, as amended, relating to requiring registered sex offenders to pay an annual fee; providing for collection and use of fee; providing that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and providing for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 728) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Senate Bill 729 (originating in the Committee on Finance)—A Bill to repeal §31-15-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §12-6C-11 of said code; to amend said code by adding thereto a new section, designated §12-6C-11b; and to amend and reenact §31-15-23 of said code, all relating generally to funding for infrastructure and economic development projects in the state; discontinuing the revolving loan from the Board of Treasury Investments to the Economic Development Authority upon the authority's receipt of an appropriation by the Legislature; requiring the Board of Treasury Investments to make a revolving loan available to the Department of Transportation; establishing a special revenue fund to receive loan moneys; permitting the Secretary of Transportation to make certain expenditures of loan moneys; requiring the secretary to reimburse the fund upon receipt of federal reimbursement moneys; providing when moneys in the fund will revert to the Consolidated Fund; establishing reporting requirements related to the fund; allowing the Board of Treasury Investments to inspect records related to the fund; defining terms; establishing a special revenue fund to receive moneys appropriated to the Economic Development Authority; allowing the authority to invest the moneys in the fund; providing that a certain amount of moneys in the fund be used for high impact economic development projects; establishing accounting and auditing standards related to the fund; and establishing project status reporting requirements related to the fund.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 729) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Senate Bill 730 (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 §12-9-1, §12-9-2, and §12-9-3, all relating generally to authorizing divestment of state-managed funds from companies engaged in certain activities involving Russia or Russian energy; setting forth legislative findings; defining terms; authorizing public investment entities in the state to divest from Russia-restricted companies; providing that divestment from Russia-restricted companies does not violate code provisions related to prudent investment and fiduciary duties; and limiting liability of public officials or employees and members or employees of public investment entities for divestment from Russia-restricted companies.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 730) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 54 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the issue of tolling the statute of

limitations for civil actions brought by the Attorney General pursuant to the West Virginia Consumer Credit and Protection Act;

Whereas, W. Va. Code §46A-7-111(b) authorizes the Attorney General to bring a civil action against a creditor or other person to recover a civil penalty for willfully violating the West Virginia Consumer Credit Protection Act, §46A-1-1 *et seq.*, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this chapter, it may assess a civil penalty of no more than \$5,000 for each violation of this chapter; and

Whereas, W. Va. Code §46A-7-111(b) further prohibits the imposition of a civil penalty pursuant to this subsection for violations the West Virginia Consumer Credit Protection Act occurring more than four years before the action is brought; and

Whereas, the West Virginia Consumer Credit Protection Act is silent as to whether the four-year period specified in W. Va. Code §46A-7-111(b) is subject to tolling under any legal, equitable, or other doctrine: therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study whether the four-year period specified in W. Va. Code §46A-7-111(b) should be subject to tolling under any legal, equitable, or other doctrine; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

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

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 25, 2022:

Senate Bill 96: Senators Romano, Rucker, Caputo, Lindsay, and Woodrum;

Com. Sub. for Senate Bill 181: Senator Jeffries;

Senate Bill 205: Senator Plymale;

Senate Bill 266: Senator Romano;

Senate Bill 413: Senator Woodrum;

Senate Bill 680: Senator Baldwin;

Senate Resolution 41: Senators Lindsay, Stollings, and Hamilton;

And,

Senate Resolution 42: Senators Stollings and Hamilton.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:17 p.m., the Senate adjourned until tomorrow, Tuesday, March 1, 2022, at 11 a.m.

TUESDAY, MARCH 1, 2022

The Senate met at 11:01 a.m.

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

Prayer was offered by the Reverend Bret Layton, Superintendent of the West Virginia South District Church of the Nazarene, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Monday, February 28, 2022,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Senate Bill 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

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

Senate Concurrent Resolution 6, Holden 22 Coal Miners Memorial Bridge.

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

Senate Concurrent Resolution 15, US Army PVT Shirley E. Bailey Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 17, US Air Force SSGT Logan A. Young Memorial Bridge.

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

Senate Concurrent Resolution 21, Putnam County Veterans Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 27, US Army TSGT Harold William Schmidle Memorial Bridge.

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

Senate Concurrent Resolution 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge.

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

Senate Concurrent Resolution 46, Supporting North Central WV aviation and aerospace industries.

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 4408—A Bill to amend and reenact §20-5-15 and §20-5-16 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resource to enter into certain contracts.

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 4419—A Bill to amend and reenact §3-8-5c, §3-8-9b, and §3-8-10 of the Code of West Virginia, 1931, as amended, all relating to allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2022, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4510—A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended, relating to providing for a multi-tiered system of support intervention for grade level literacy and numeracy by end of third grade; making findings; replacing transformative intervention framework with multi-tiered system of support; addressing both reading and mathematics; requiring early learning reporting system and specifying uses; specifying minimum information and notice to parent or guardian; providing for professional learning for certain teachers and specifying subjects; ensuring certain training and instruction be provided by education preparation programs that prepare candidates seeking licensure for elementary education; removing redundant language; providing for data from the early learning reporting system to be used to inform classroom teacher's recommendation regarding grade level retention; requiring county board implementation; requiring reports by state board; requiring certain legislative appropriation and other funds be used for implementation; requiring retention in third grade of public school and public charter school student who demonstrate minimal grade level understanding and ability upon recommendation of teacher and student assistance team; providing exceptions; requiring students starting in the fourth grade who score below proficient in

English language arts or mathematics on general summative assessment to continue to be provided intervention until grade level proficient.

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 4516—A Bill to amend and reenact §16-5Y-6 of the Code of West Virginia, 1931, as amended, relating to the regulation of medication-assisted treatment programs; requiring written policies; and requiring public notice.

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 4540—A Bill to amend and reenact §5-10-2, §5-10-27b and §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-2, §7-14D-7a and §7-14D-9b; to amend and reenact §8-22A-2, §8-22A-8a and §8-22A-11; to amend and reenact §15-2-25b, §15-2-45 and §15-2-54; to amend and reenact §15-2A-2, §15-2A-6b and §15-2A-23; to amend and reenact §16-5V-2, §16-5V-8a and §16-5V-13; to amend and reenact §18-7A-3, §18-7A-14c and §18-7A-28b; to amend and reenact §18-7B-2, §18-7B-12a and §18-7B-21; to amend and reenact §20-18-2, §20-18-9 and §20-18-14; and to amend and reenact §51-9-1a, §51-9-12b and §51-9-18, all relating to updating provisions of the retirement and pension benefits of the West Virginia Public Employees Retirement System, the Deputy Sheriffs' Retirement System, the Municipal Police and Firefighters Retirement System, the State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement Fund, the Emergency Medical Services Retirement System, the Teachers Retirement System, the Teachers' Defined Contribution Retirement System, the Natural Resources Police Officers

Retirement System and the Judges' Retirement Fund in order to comply with federal law; changing age threshold for plan members born after June 30, 1949; clarifying provisions regarding correction of errors; and amending definitions for each retirement system named here.

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 and requested the concurrence of the Senate in the passage of

Eng. House Bill 4612—A Bill to amend and reenact §8-22A-18 of the Code of West Virginia, 1931, as amended, relating to decreasing the time period of eligibility for nonduty disability from 10 to five or more years of contributory service for the West Virginia Municipal Police Officers and Firefighters Retirement System.

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 and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4613—A Bill to amend and reenact §8-22A-2 of the Code of West Virginia, 1931, as amended, relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

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 and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4614—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-13a, relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the West Virginia Municipal Police Officers and Firefighters Retirement System.

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 and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4657—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, §11-13MM-10, §11-13MM-11, §11-13MM-12, §11-13MM-13, §11-13MM-14, §11-13MM-15, §11-13MM-16, §11-13MM-17, §11-13MM-18, §11-13MM-19, §11-13MM-20, and §11-13MM-21; all relating to the creation of the Rare Earth Element and Critical Mineral Investment Tax Credit Act; providing for a short title; providing legislative findings and purpose; defining terms including rare earth elements and critical minerals; providing for administration and enforcement of act; specifying an amount of credit allowable based on amount of qualified investment and the number of new jobs created for mining and processing of rare earth elements and critical minerals and manufacturing of products requiring rare earth elements and critical minerals; providing limitations and conditions for the qualification and use; defining in service or use; providing for the application of the credit to the corporate net income tax and the personal income tax, as appropriate; providing for methods of calculation of the qualified investment; providing for a determination and certification of the number of new jobs; providing for carry over and forfeiture of unused tax credits and redetermination of tax credits under certain circumstances; providing certain limitations for credits being carried over; providing for full recapture and partial recapture of credit under

certain circumstances and imposing a recapture tax; allowing transfer of qualified investment property without forfeiture or recapture under certain circumstances; requiring identification of qualified investment property and record keeping; providing civil penalties for failure to keep required records; providing for interpretation and construction of credit; requiring timely filing of application for credit; providing for criminal and civil penalties; specifying burden of proof; requiring periodic review and reporting; authorizing rule-making; making the credit subject to West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing for severability; and specifying an effective date.

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. Com. Sub. for House Bill 4660—A Bill to amend and reenact §16-2D-9, of the Code of West Virginia, 1931, as amended, relating to establishing the status of beds when an intermediate care facility for individuals with intellectual disabilities permanently closes.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4662—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-115a, relating to licensure of Head Start facilities in this state.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4827—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4 and §5B-2K-5, all relating to the promotion of the development of public-use vertiports.

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 adoption by that body and requested the concurrence of the Senate in the adoption of the following resolutions:

House Concurrent Resolution 89—Requesting the Division of Highways name Bridge Numbers 41-077/00-040.83 (NB & SB) (41A221, 41A228), (37.74329, -81.20788) locally known as I-77 OVER PINEY CR (NB & SB), carrying IS 77 over PINEY CREEK and CSX RR in Raleigh County, the "Hajash Brothers Memorial Bridge".

House Concurrent Resolution 90—Requesting the Division of Highways name Bridge Number: 20-060/00-027.85 () (20A154), (38.24286, -81.55058) locally known as DUPONT OVERPASS, carrying US 60 over CR 60/15 in Kanawha County, the "U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge".

The preceding resolutions were referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 250, Budget Bill.

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

Com. Sub. for Senate Bill 250 (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

The Senate proceeded to the sixth order of business.

Senator Jeffries offered the following resolution:

Senate Resolution 46—Designating March 2, 2022, as Disability Employment State Use Program Day.

Whereas, The State Use Program was established in 1984 to serve the State of West Virginia and our statewide disability community; and

Whereas, The WV Association for Rehabilitation Facilities in partnership with WV Association for Disability Employment, work toward our collective mission of giving every individual with a disability the opportunity to have gainful employment; and

Whereas, Disability is a natural part of the human experience and in no way diminishes individuals with disabilities to live independently, enjoy self-determination, contribute to society, and fully experience economic, political, social, cultural, and educational mainstream of society; and

Whereas, Family members, friends, and members of the community can play a central role in enhancing the lives of people with disabilities, especially when provided with necessary support services, and public and private employers are aware of the capabilities of people with disabilities to be engaged in competitive work in inclusive settings; and

Whereas, The goal of the State Use Program is to provide individuals with disabilities the opportunities and support to make informed decisions, pursue meaningful productive lives, contribute to their family, community, state, and nation; in addition to having interdependent relationships with others to achieve full inclusion in society; and

Whereas, The Senate hereby recognizes the contribution that workers with disabilities make to the safe and efficient operation of government for the State of West Virginia through the State Use Program; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 2, 2022, as Disability Employment State Use Program Day; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Tara Martinez, CEO of WV Association of Rehabilitation Facilities, Inc.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 54, Requesting study of tolling statute of limitations on civil actions for Consumer Credit and Protection Act.

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 Resolution 43, Recognizing WV respiratory therapists during month of March.

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

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, and on this question, Senator Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 43) adopted.

Senate Resolution 44, Recognizing Leadership Jefferson.

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

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

Senate Resolution 45, Designating month of March as American Red Cross month.

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

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.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 64, Allowing county commissions to impose amusement tax.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

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

On page one, section three-uu, line three, after the word "gain" by changing the period to a colon and inserting the following proviso: *Provided*, That no admission or amusement tax may be levied on any organization which is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Following discussion,

The question being on the adoption of Senator Baldwin's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 64 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 64 pass?"

On the passage of the bill, the yeas were: Beach, Boley, Brown, Caputo, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Nelson, Phillips, Plymale, Roberts, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Geffert, Martin, Maynard, Romano, and Rucker—7.

Absent: Stover—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. 64) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Beach, Boley, Brown, Caputo, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Nelson, Phillips, Plymale, Roberts, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Geffert, Martin, Maynard, Romano, and Rucker—7.

Absent: Stover—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. 64) takes effect July 1, 2023.

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

At the request of Senator Plymale, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator 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:

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-12a. Pari-mutuel wagering on interstate and intrastate horse and dog racing.

(1) Notwithstanding any other provisions of this code, a racing association licensed in this state to conduct race meetings may, with the consent of the Racing Commission and the written approval of the authorized representative of a majority of the owners and trainers who hold the permit required by section two of this article at the horse racetrack, contract with any legal wagering entity in this or any other state to accept wagers on any race or races conducted by such legal wagering entity. Unless the wager becomes part of the host licensee's pari-mutuel pool, such wagering shall be conducted within the confines of such licensee's racetrack or at a hotel as defined in §16-6-3 of this code, controlled by such licensee and contiguous to the licensee's property, subject to the following requirements:

(a) That such hotel contain at least 100 rooms and be in existence on the effective date of this section;

(b) That the licensee shall have invested at least \$1 million in the hotel; and

(c) That such hotel is within one-half mile of the licensee's racetrack surface.

(2) Such horse association shall retain a basic commission not to exceed 17 and 25 one-hundredths percent of all money wagered, plus an additional amount equal to one and 75 one-hundredths percent of the amount wagered each day on all multiple wagers determined by a combination of two winning horses, including, but

not limited to, the daily double, quinella and perfecta or plus an additional amount equal to seven and seventy-five one-hundredths percent of the amount wagered each day on all trifecta wagers or any other multiple wager which involves a single betting interest on three or more horses. Breakage shall be calculated and distributed in the manner provided by §19-23-9 (c) of this code.

(3) The commission deducted by any licensee from the pari-mutuel pools on dog racing shall not exceed 16 and one-fourth percent of the total of such pari-mutuel pools for the day.

(4) Out of the commission retained or deducted by a licensee under the provisions of subsections (2) and (3) of this section, the licensee shall pay one tenth of one percent into the General Fund of the county commission of the county in which the racetrack is located, except if within a municipality, then to such municipality's general fund.

(5) The association shall pay each day a pari-mutuel pools tax calculated under the provisions of §19-23-10 of this code.

(6) After deducting the county or municipal share provided for in subsection (4) of this section and the pari-mutuel pools tax required by subsection (5) of this section, and the amount required to be paid under the terms of the contract with the legal wagering entity of this or another state and the cost of transmission, the horse racing association shall make a deposit equal to 50 percent of the remainder into the purse fund established under the provisions of §19-23-9(1)(b) of this code.

(7) All of the provisions of the Federal Interstate Horseracing Act of 1978, also known as Public Law 95-515, section 3001-3007 of title 15, U.S. Code, shall be instructive as the intent of this section.

(8) For the purposes of this section the words "legal wagering entity" shall be limited to any person engaged in horse racing or dog racing pursuant to a license or other permission granted by the state in which such person's racetrack is situated and conducting race meetings, with a pari-mutuel wagering system permitted under

that state's laws and in which the participants are wagering with each other and not the operator.

(9) Notwithstanding any provision of this chapter to the contrary, a licensed racetrack may establish a secondary location for its business at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located to conduct pari-mutual wagering on simulcast races so long as the licensed racetrack receives approval from the State Lottery Commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations with no requirement that the second location have a racetrack: *Provided*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-12. Number and location of video lottery terminals security.

(a) A racetrack which has been licensed to conduct video lottery games has the right to install and operate up to 400 video lottery terminals at a licensed racetrack. A licensed racetrack may apply to the commission for authorization to install and operate more than 400 video lottery terminals. If the commission determines that the installation of additional machines is in the best

interest of the licensed racetrack, the Lottery Commission and the citizens of this state, the commission may grant permission to install and operate additional machines.

(b) All video lottery terminals in licensed racetracks shall be physically located as follows:

(1) The video lottery location shall be continuously monitored through the use of a closed circuit television system capable of recording activity for a continuous 24-hour period. All video tapes shall be retained for a period of at least 30 days;

(2) Access to video lottery terminal locations shall be restricted to persons legally entitled by age to play video lottery games;

(3) The licensed racetrack shall submit for commission approval a floor plan of the area or areas where video lottery terminals are to be operated showing terminal locations and security camera mount locations;

(4) No video lottery terminal may be relocated without prior approval from the commission; and

(5) Operational video lottery terminals may only be located in the building or structure in which the grandstand area of the racetrack is located and in the area of the building or structure where pari-mutuel wagering is permitted under the provisions of §19-23-1 *et seq.* of this code: *Provided*, That if the commission, before November 1, 1993, has authorized any racetrack to operate video lottery terminals and offer video lottery games in a location which would not conform to the requirements of this subdivision, the racetrack may continue to use video lottery terminals registered with and approved by the commission at that nonconforming location and to offer the games and any variations or composites of the games as may be approved by the commission.

(c) A licensee shall allow video lottery games to be played only on days when live racing is being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction ~~shall~~ may not apply to any racetrack authorized by the commissioner prior to

November 1, 1993, to operate video lottery terminals and conduct video lottery games.

(d) Security personnel shall be present during all hours of operation at each video lottery terminal location. Each license holder shall employ the number of security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery facilities and the safety and well-being of the players.

(e) Notwithstanding any provision in this chapter to the contrary, a licensed racetrack may establish a secondary location for its business, including authorized operational video lottery terminals, at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located so long as the licensed racetrack receives approval from the commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That if any licensed racetrack relocates operational video lottery terminals outside of a municipality, the municipality is entitled to receive the share of funds it received under §29-22A-10 and §29-22A-10b of this code up to the amount received in the fiscal year immediately preceding the relocation of the operational video lottery terminals and the excess of this amount shall be divided proportionally to the said municipality and the new municipality, if any, based on the revenues generated at each location: *Provided, however*, That the total amount of funds transferred to the municipalities may not be in excess of the percentage provided under §29-22A-10 and §29-22A-10b of this code: *Provided further*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this

subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.

§29-22C-3. Definitions.

(a) *Applicability of definitions.* — For the purposes of this article, the words or terms defined in this section, and any variation of those words or terms required by the context, have the meanings ascribed to them in this section. These definitions are applicable unless a different meaning clearly appears from the context in which the word or term is used.

(b) *Terms defined.*—

(1) "Adjusted gross receipts" means gross receipts from West Virginia Lottery table games less winnings paid to patrons wagering on the racetrack's table games.

(2) "Applicant" means any person who on his or her own behalf, or on behalf of another, has applied for permission to engage in any act or activity that is regulated under the provision of this article for which a license is required by this article or rule of the commission.

(3) "Application" means any written request for permission to engage in any act or activity that is regulated under the provisions of this article submitted in the form prescribed by the commission.

(4) "Background investigation" means a security, criminal, and credit investigation of an applicant who has applied for the issuance or renewal of a license pursuant to this article, or a licensee who holds a current license.

(5) "Commission" or "State Lottery Commission" means the West Virginia Lottery Commission created by §29-22-1 *et seq.* of this code.

(6) "Complimentary" means a service or item provided at no cost or at a reduced price.

(7) "Compensation" means any money, thing of value, or financial benefit conferred or received by a person in return for services rendered, or to be rendered, whether by that person or another.

(8) "Contested case" means a proceeding before the commission, or a hearing examiner designated by the commission to hear the contested case, in which the legal rights, duties, interests or privileges of specific persons are required by law or Constitutional right to be determined after a commission hearing, but does not include cases in which the commission issues a license, permit, or certificate after an examination to test the knowledge or ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination and does not include rulemaking.

(9) "Control" means the authority directly or indirectly to direct the management and policies of an applicant for a license issued under this article or the holder of a license issued under this article.

(10) "Designated gaming area" means one or more specific floor areas of a licensed racetrack within which the commission has authorized operation of racetrack video lottery terminals or table games, or the operation of both racetrack video lottery terminals and West Virginia Lottery table games.

(11) "Director" means the Director of the West Virginia State Lottery Commission appointed pursuant to §29-22-6 of this code.

(12) "Disciplinary action" is an action by the commission suspending or revoking a license, fining, excluding, reprimanding, or otherwise penalizing a person for violating this article or rules promulgated by the commission.

(13) "Financial interest" or "financially interested" means any interest in investments, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration for consummation by the commission. A member, employee, or agent

of the commission will be considered to have a financial interest in a matter under consideration if any of the following circumstances exist:

(A) He or she owns one percent or more of any class of outstanding securities that are issued by a party to the matter under consideration by the commission; or

(B) He or she is employed by an independent contractor for a party to the matter under consideration or consummated by the commission.

(14) "Gaming equipment" means gaming tables, cards, dice, chips, shufflers, drop boxes or any other mechanical, electronic, or other device, mechanism, or equipment or related supplies used or consumed in the operation of any West Virginia Lottery table game at a licensed racetrack.

(15) "Gross receipts" means the total of all sums including valid or invalid checks, currency, tokens, coupons (excluding match play coupons), vouchers or instruments of monetary value whether collected or uncollected, received by a racetrack with table games from table gaming operations at a race track, including all entry fees assessed for tournaments or other contests.

(16) "Indirect ownership" means an interest a person owns in an entity or in property solely as a result of application of constructive ownership rules without regard to any direct ownership interest (or other beneficial interest) in the entity or property. "Indirect ownership" shall be determined under the same rules applicable to determining whether a gain or loss between related parties is recognized for federal income tax purposes.

(17) "Licensed racetrack" means a thoroughbred horse or greyhound dog racing facility licensed under both §29-22A-1 *et seq.* and §19-23-1 *et seq.* of this code.

(18) "License" means any license applied for or issued by the commission under this article, including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery table games at a licensed racetrack;

(B) A license to supply a racetrack licensed under this article to operate table games with table gaming equipment or services necessary for the operation of table games;

(C) A license to be employed at a racetrack licensed under this article to operate West Virginia Lottery table games when the employee works in a designated gaming area that has table games or performs duties in furtherance of or associated with the operation of table games at the licensed racetrack; or

(D) A license to provide management services under a contract to a racetrack licensed under this article to operate table games.

(19) "Licensee" means any person who is licensed under any provision of this article.

(20) "Lottery" means the public gaming systems or games regulated, controlled, owned, and operated by the state Lottery Commission in the manner provided by general law, as provided in this article and in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code.

(21) "Member" means a commission member appointed to the West Virginia Lottery Commission under §29-22-1 *et seq.* of this code.

(22) "National criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(23) "Own" means any beneficial or proprietary interest in any real or personal property, including intellectual property, and also includes, but is not limited to, any direct or indirect beneficial or proprietary interest in any business of an applicant or licensee.

(24) "Person" means any natural person, and any corporation, association, partnership, limited liability company, limited liability

partnership, trust, or other entity, regardless of its form, structure or nature other than a government agency or instrumentality.

(25) "Player" or "Patron" means a person who plays a racetrack video lottery game or a West Virginia Lottery table game at a racetrack licensed under this article to have table games.

(26) "Player's account" means a financial record established by a licensed racetrack for an individual racetrack patron to which the racetrack may credit winnings and other amounts due to the racetrack patron and from which the patron may withdraw moneys due to the patron for purchase of tokens, chips or electronic media or other purposes.

(27) "Racetrack table games license" means authorization granted under this article by the commission to a racetrack that is already licensed under §29-22A-1 *et seq.* of this code to operate racetrack video lottery terminals and holds a valid racing license granted by the West Virginia Racing Commission pursuant to the provision of §19-23-1 *et seq.* of this code, which permits the racetrack as an agent of the commission for the limited purpose of operation of West Virginia Lottery table games in one or more designated gaming areas in one or more buildings owned or leased by the licensed racetrack on the grounds where live pari-mutuel racing is conducted by the licensee or at a secondary location consisting of any building owned or leased by the licensed racetrack within the county the licensed racetrack is located so long as the licensed racetrack receives approval from the commission.

(28) "Racetrack Table Games Fund" means the special fund in the State Treasury created in §29-22C-27 of this code.

(29) "Secondary or satellite locations" means a secondary location of a business in any building owned or leased by a licensed racetrack within the county the licensed racetrack is located to conduct pari-mutual wagering on simulcasts, video lottery terminals, sports wagering kiosks, and racetrack table games.

(30) ~~(29)~~ "Significant influence" means the capacity of a person to affect substantially (but not control) either, or both, of the financial and operating policies of another person.

(31) ~~(30)~~ "Supplier" means a person who the commission has identified under legislative rules of the commission as requiring a license to provide a racetrack table games licensee with goods or services to be used in connection with operation of table games.

(32) ~~(31)~~ "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

(33) ~~(32)~~ "West Virginia Lottery table game" means any game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette, wheel of fortune or any variation of these games similar in design or operation and expressly authorized by rule of the commission, including multiplayer electronic table games, machines and devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets, pull tabs, or similar games.

(34) ~~(33)~~ "Winnings" means the total cash value of all property or sums including currency, tokens, or instruments of monetary value paid to players as a direct result of wagers placed on West Virginia Lottery table games.

§29-22C-4. Commission duties and powers.

(a) *Duties.* — In addition to the duties set forth elsewhere in this article or in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission shall:

(1) Establish minimum standards for gaming equipment, including, but not limited to, electronic and mechanical gaming equipment;

(2) Enter into licensing agreements with facilities eligible to operate West Virginia Lottery table games for the state, providing

criteria and guidelines for preservation of the state's ownership, operation, and control interests as provided by general law herein;

(3) Approve, modify, or reject game rules of play proposed by the licensee for West Virginia Lottery table games proposed to be operated at a licensed racetrack;

(4) Approve, modify, or reject minimum internal control standards proposed by the licensee governing racetrack table game operations, including the maintenance of financial records;

(5) Approve staff considered necessary by the director to oversee, inspect and monitor the operation of table games at any racetrack licensed under this article and §29-22A-1 *et seq.* of this code, including, but not limited to, inspection of designated gaming areas, gaming equipment and security equipment used in the operation of table games to assure continuous compliance with the provisions of this article, required license conditions and terms, and applicable rules of the commission;

(6) Determine eligibility of a person to hold or continue to hold a license issued under this article;

(7) License, establish standards and requirements for operation, and approve operation of a secondary location once approval of the voters certified in a local option election as set forth in §29-22C-7 of this article.

~~(7)~~ (8) Issue all licenses;

~~(8)~~ (9) Maintain a record of all licenses issued;

~~(9)~~ (10) Levy and collect the taxes imposed by this article and the fees, surcharges and civil penalties authorized, required or specified in this article or the legislative rules of the commission, and receive, accept and pay all taxes, fees, surcharges and civil penalties collected under this article into the Racetrack Table Games Fund, except as otherwise provided under this article; and

~~(10)~~ (11) Keep a public record of all commission actions and proceedings with respect to West Virginia Lottery table games.

(b) *Powers.*— In addition to the powers set forth elsewhere in this article or in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission may:

(1) Sue to enforce any provision of this article or any rule of the commission, whether by civil action or petition for injunctive relief;

(2) Hold hearings, administer oaths, and issue subpoenas for attendance of witnesses to testify or subpoenas duces tecum for the production of documents or other evidence;

(3) Enter a licensed racetrack with West Virginia Lottery table games at any time and without notice to ensure strict compliance with this article and with the rules of the commission;

(4) Bar, for cause, any person from:

(A) Entering a designated gaming area of a licensed racetrack with table games, or the grounds of a racetrack licensed under this article; or

(B) Participating in any capacity in the play of any West Virginia Lottery table game, or in the operation of West Virginia Lottery table games;

(5) (A) Promulgate, or propose for promulgation, in accordance with the provision of §29A-3-1 *et seq.* of this code, any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article, and to amend or revoke any promulgated rule, in accordance with provisions of §29A-3-1 *et seq.* of this code, at the discretion of the commission.

(B) Promulgate rules for the operation of secondary or satellite locations. These rules may include the maximum number of allowable table games and video lottery terminals that are permissible at a secondary or satellite location.

(C) Any rule proposed by the commission before September 1, 2007 may be promulgated as an emergency rule;

(6) Upon the effective date of this article and prior to promulgation of emergency rules, the commission may accept applications, evaluate qualifications of applicants, and undertake initial review of licenses for: Racetracks under §29-22C-8 of this code; suppliers §29-22C-11 of this code; racetrack employees under §29-22C-12 of this code; and providers of management services under §29-22C-13 of this code; and

(7) Exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

§29-22C-6. Licenses required.

(a) No person may engage in any activity in connection with a racetrack with West Virginia Lottery table games in this state for which a license is required by this article or rules of the commission unless all necessary licenses have been obtained in accordance with this article and rules of the commission.

(b) Licenses are required for the following purposes:

(1) For any person operating a racetrack West Virginia Lottery table game in the state;

(2) For any person supplying a racetrack table games licensee with gaming equipment or gaming equipment services;

(3) For any individual employed by a racetrack table games licensee in connection with the operation of West Virginia Lottery table games in the state; and

(4) For any person providing management services under a contract to a racetrack table games licensee.

(c) The commission may not grant a license to an applicant until the commission determines that each person who has control of the applicant also meets all of the qualifications the applicant must meet to hold the license for which application is made. The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company or subsidiary company of the applicant, but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business, who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation;

(2) Each person associated with a noncorporate applicant who directly or indirectly holds any beneficial or proprietary interest in the applicant or who the commission determines to have the ability to control the applicant; and

(3) Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

(d) Notwithstanding any provision of this code to the contrary, any license granted pursuant to the provisions of this section would also authorize a secondary location once approval of the voters certified in a local option election as set forth in §22-29C-7 of this code.

~~(d)~~ (e) Any license required by this article or rules of the commission is in addition to all other licenses or permits required by applicable federal, state or local law.

§29-22C-7. Local option election.

PART ONE. WEST VIRGINIA LOTTERTY TABLE GAMES.

(a) No racetrack may be licensed under this article to operate West Virginia Lottery table games until a local option election is held in the county in which pari-mutuel wagers are received at a racetrack licensed under §19-23-1 *et seq.* of this code and the voters of that county voting on the question approve having West Virginia Lottery table games at the racetrack.

(b) The county commission shall place the question on the ballot upon the receipt of a written notice from a licensed racetrack

located within that county requesting that the question be placed on the ballot.

(c) The county commission of the county in which table games would be located shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date at least 30 days preceding the day of the election. A local option election shall be effective even though the date of the order of the county commission setting the election or the date of publication of notice of the election is prior to the effective date of this article if the election is otherwise held in accordance with the provisions of this section.

(d) On the local option election ballot shall be printed the following:

Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

Yes No

(Place a cross mark in the square next to your choice.)

(e) The local option election shall be held in conjunction with the next primary or general election scheduled more than 90 days following receipt by the county commission of the notice required by this section or at a special election: *Provided*, That upon written request by the licensed racetrack that a special election be called, the county commission shall order a special election to be held on the question within 90 days after the receipt by the county commission of that request. The county commission may require the licensed racetrack to pay the entire cost incurred by the county to hold the special election. Approval shall be by a majority of the voters casting votes at the election on the question of approval or disapproval of West Virginia Lottery table games at a licensed racetrack.

(f) If the majority votes against allowing table games at a licensed racetrack, no election on the issue shall be held for a period of 104 weeks. A local option election may thereafter be held in the manner provided in this section. The process to hold another election on the question shall start anew, as if no prior request for an election on the question had been filed with county commission and as if there had been no prior election on the question.

(g) If the majority votes for allowing West Virginia Lottery table games at a licensed racetrack facility in a county, another local option election on the issue shall not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which the horse or dog racetrack is located. The petition may be in any number of counterparts. The petition shall be in the following form:

Petition For Local Option Election

We, the undersigned legally qualified voters, resident within the County of _____, do hereby petition that a special election be held within the County of _____ upon the following question: Shall West Virginia Lottery table games be permitted at the [name of racetrack]?

Name	Address	Date
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(Post office or street address)

PART TWO. SECONDARY OR SATILLITE LOCATIONS.

(a) No secondary location may be licensed pursuant to this article to operate West Virginia Lottery table games, pari-mutual wagering on simulcast, sports wagering kiosks, and video lottery terminals until a local option election is held in the county in which pari-mutual wagers are received at a racetrack licensed pursuant to §19-23-1 et seq. of this code and §29-23-1 et seq. of this code and the voters of that county voting on the question approve having a secondary location of a West Virginia Lottery table games, pari-

mutual wagering on simulcast, and video lottery terminals at a secondary location operated by a racetrack licensed pursuant to §19-23-1 et seq. of this code and §29-23-1 et seq. of this code.

(b) The county commission shall place the question on the ballot upon the receipt of a written notice from a licensed racetrack located within that county requesting that the question be placed on the ballot.

(c) The county commission of the county in which the secondary location would be located shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date at least 30 days preceding the day of the election. A local option election shall be effective even though the date of the order of the county commission setting the election or the date of publication of notice of the election is prior to the effective date of this article if the election is otherwise held in accordance with the provisions of this section.

(d) On the local option election ballot shall be printed the following:

Shall secondary or satellite locations for gaming be permitted to be operated by [name of licensed racetrack]?

Yes No

(Place a cross mark in the square next to your choice.)

(e) The local option election shall be held in conjunction with the next primary or general election scheduled more than 90 days following receipt by the county commission of the notice required by this section or at a special election: *Provided*, That upon written request by the licensed racetrack that a special election be called, the county commission shall order a special election to be held on the question within 90 days after the receipt by the county commission of that request. The county commission may require

the licensed racetrack to pay the entire cost incurred by the county to hold the special election. Approval shall be by a majority of the voters casting votes at the election on the question of approval or disapproval of secondary or satellite locations operated by a licensed racetrack.

(f) If the majority votes against allowing operation of secondary or satellite locations by a licensed racetrack, no election on the issue shall be held for a period of 104 weeks. A local option election may thereafter be held in the manner provided in this section. The process to hold another election on the question shall start anew, as if no prior request for an election on the question had been filed with county commission and as if there had been no prior election on the question.

(g) If the majority votes for allowing operation of secondary or satellite locations by a licensed racetrack facility in a county, another local option election on the issue shall not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which the horse or dog racetrack is located. The petition may be in any number of counterparts. The petition shall be in the following form:

Petition For Local Option Election

We, the undersigned legally qualified voters, resident within the County of _____, do hereby petition that a special election be held within the County of _____ upon the following question: Shall secondary or satellite locations for gaming be permitted to be operated by [name of licensed racetrack]?

Name _____ Address _____ Date _____

(Post office or street address)

§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.

(a) *Racetrack table games licenses.* — The commission may issue up to four racetrack table games licenses to operate West Virginia Lottery table games in accordance with the provisions of this article. The Legislature intends that no more than four licenses to operate a racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

(b) *Grant of license.* — Upon the passage of a local option election in a county in accordance with the provisions of §29-22C-7 of this code, the commission shall immediately grant a West Virginia Lottery table games license, and a license for the right to conduct West Virginia Lottery table games as assignee to the intellectual property rights of the state, to allow the licensee to conduct West Virginia table games at the licensed pari-mutuel racetrack identified on the local option election ballot, provided that racetrack holds a valid racetrack video lottery license issued by the commission pursuant to §29-22A-1 *et seq.* of this code and a valid racing license granted by the West Virginia Racing Commission pursuant to the provision of §19-23-1 *et seq.* of this code and has otherwise met the requirements for licensure under the provisions of this article and the rules of the commission.

(c) *Location.* — A racetrack table games license authorizes the operation of West Virginia Lottery table games on the grounds of the particular licensed facility identified in the racetrack video lottery license issued pursuant to §29-22A-1 *et seq.* of this code and the license to conduct horse or dog racing issued pursuant to §19-23-1 *et seq.* of this code.

(d) *Floor plan submission requirement.* — Prior to commencing the operation of any table games in a designated gaming area, a racetrack table games licensee shall submit to the commission for its approval a detailed floor plan depicting the location of the designated gaming area in which table games gaming equipment will be located and its proposed arrangement of the table games gaming equipment. Any floor plan submission that satisfies the requirements of the rules promulgated by the

commission shall be considered approved by the commission unless the racetrack table games licensee is notified in writing to the contrary within one month of filing a detailed floor plan.

(e) *Management service contracts.* —

(1) *Approval.* — A racetrack table games licensee may not enter into any management service contract that would permit any person other than the licensee to act as the commission's agent in operating West Virginia Lottery table games unless the management service contract is: (A) With a person licensed under this article to provide management services; (B) is in writing; and (C) the contract has been approved by the commission.

(2) *Material change.* — The licensed racetrack table games licensee shall submit any material change in a management service contract previously approved by the commission to the commission for its approval or rejection before the material change may take effect.

(3) *Prohibition on assignment or transfer.* — A management services contract may not be assigned or transferred to a third party.

(4) *Other commission approvals and licenses.* — The duties and responsibilities of a management services provider under a management services contract may not be assigned, delegated, subcontracted, or transferred to a third party to perform without the prior approval of the commission. Third parties must be licensed under this article before providing service. The commission may by rule clarify application of this subdivision and provide exceptions to its application. The commission shall license and require the display of West Virginia Lottery game logos on appropriate game surfaces and other gaming items and locations as the commission considers appropriate.

(f) *Coordination of licensed activities.* — In order to coordinate various licensed activities within racetrack facilities, the following provisions apply to licensed racetrack facilities:

(1) The provisions of this article and of §29-22A-1 *et seq.* of this code shall be interpreted to allow West Virginia Lottery table

games and racetrack video lottery operations under those articles to be harmoniously conducted in the same designated gaming area.

(2) On the effective date of this article, the provisions of §29-22C-23 of this code apply to all video lottery games conducted within a racetrack facility, notwithstanding any inconsistent provisions contained in §29-22A-1 *et seq.* of this code to the contrary.

(3) On and after the effective date of this article, vacation of the premises after service of beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with respect to hours of sale of those beverages, or required vacation of the premises.

(g) *Fees, expiration date and renewal.* —

(1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the commission at the time of issuance of the racetrack table games license, regardless of the number of months remaining in the license year for which it is issued. All licenses expire at the end of the day on June 30 each year.

(2) The commission shall annually renew a racetrack table games license as of July 1, of each year provided the licensee:

(A) Successfully renews its racetrack video lottery license under §29-22A-1 *et seq.* of this code before July 1;

(B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this section at the time it files its application for renewal of its license under §29-22A-1 *et seq.* of this code; and

(C) During the current license year, the licensee complied with all provisions of this article, all rules adopted by the commission and all final orders of the commission applicable to the licensee.

(3) *Annual license surcharge for failure to construct hotel on premises.* — It is the intent of the Legislature that each racetrack

for which a racetrack table games license has been issued be or become a destination tourism resort facility. To that end, it is important that each racetrack for which a racetrack table games license has been issued operate a hotel with significant amenities. Therefore, in addition to all other taxes and fees required by the provisions of this article, there is hereby imposed, upon each racetrack for which a racetrack table games license has been issued an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that racetrack does not operate a hotel on its racing property that contains at least 150 guest rooms with significant amenities within three years of the passage of the local option election in its county authorizing table games at the racetrack, provided the time for completion of the hotel shall be extended by the same number of days as the completion of the hotel is delayed by a force majeure events or conditions beyond the reasonable control of the racetrack licensee. The surcharge shall be paid upon each renewal of its racetrack table games license made after the expiration of the three year period, and may be extended by the above force majeure events or conditions, until the racetrack opens a qualifying hotel.

(4) If the licensee fails to apply to renew its license under §19-23-1 *et seq.* and §29-22A-1 *et seq.* of this code until after the license expires, the commission shall renew its license under this article at the time it renews its license under §29-22A-1 *et seq.* of this code provided the licensee has paid the annual license fee required by this section and during the preceding license year the licensee complied with all provisions of this article, all rules adopted by the commission and all final orders of the commission applicable to the licensee.

(h) *Facility qualifications.* — A racetrack table games licensee shall demonstrate that the racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in accordance with applicable federal and state laws; (2) be licensed in accordance with this article, and all other applicable federal, state, and local laws; and (3) meet any other qualifications specified in rules adopted by the commission.

(i) *Surety bond.*— A racetrack table games licensee shall execute a surety bond to be given to the state to guarantee the licensee faithfully makes all payments in accordance with the provisions of this article and rules promulgated by the commission. The surety bond shall be:

(1) In the amount determined by the commission to be adequate to protect the state against nonpayment by the licensee of amounts due the state under this article;

(2) In a form approved by the commission; and

(3) With a surety approved by the commission who is licensed to write surety insurance in this state. The bond shall remain in effect during the term of the license and may not be canceled by a surety on less than 30 days' notice in writing to the commission. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

(j) *Authorization.* — A racetrack table games license authorizes the licensee act as an agent of the commission in operating an unlimited amount of West Virginia Lottery table games while the license is active, subject to subsection (d) of this section. A racetrack table games license is not transferable or assignable and cannot be sold or pledged as collateral.

(k) *Audits.* — When applying for a license and annually thereafter prior to license renewal, a racetrack table games licensee shall submit to the commission an annual audit, by a certified public accountant, of the financial transactions and condition of the licensee's total operations. The audit shall be made in accordance with generally accepted accounting principles and applicable federal and state laws.

(l) *Commission office space.* — A racetrack table games licensee shall provide to the commission, at no cost to the commission, suitable office space at the racetrack facility for the commission to perform the duties required of it by this article and the rules of the commission.

(m) Notwithstanding anything in this chapter to the contrary, a licensed racetrack may establish a secondary location for its business, including authorized racetrack table games, video lottery terminals, sports wagering kiosks, and pari-mutual wagering on simulcasts at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located so long as such licensed racetrack receives approval from the commission and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That if any licensed racetrack relocates racetrack table games outside of a municipality, said municipality shall be entitled to receive the share of funds it received under §29-22C-27 of this code up to the amount received in the fiscal year immediately preceding the relocation of the racetrack table games and the excess of this amount shall be divided proportionally to that municipality and the new municipality, if any, based on the revenues generated at each location: *Provided, however*, That the total amount of funds transferred to the municipalities may not be in excess of the percentage provided for under §29-22C-27 of this code: *Provided further*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at the original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

(n) No additional license would be required, no additional fees would be required, and further surety bond would not be required to operate a secondary or satellite location. Any license obtained pursuant to this section and any licensing fees as incident to either of those licenses and any required surety bond would allow

operation of a secondary or satellite location. Any license issued pursuant to §29-22A-1 et seq. of this code, §29-22D-1 et seq. of this code, and §19-23-1 et seq. of this code would also extend to any secondary or satellite location as those terms are defined in §29-22C-3 of this code. The secondary location is not required to operate a racetrack.

§29-22D-15. Authorization of sports wagering in this state; requirements.

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) The commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate regulations implementing the provisions of §29-22D-15(a) of this code by interpretive rule and minimum internal control standards.

(f) The commission shall, when a federal law is enacted or repealed or when a federal court decision is issued that permits a state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of such court decision. The commission shall not be authorized to conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) No licensed gaming facility employee may place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of their employer.

(h) No commission employee may knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

(i) Notwithstanding any provision of this chapter to the contrary, a licensed racetrack may establish a secondary location for its business at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located to provide sports wagering kiosks so long as the licensed racetrack receives approval from the State Lottery Commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility: *Provided, however*, That a secondary or satellite location is not required to operate a racetrack. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at

the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

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

Engrossed Committee Substitute for Senate Bill 100 was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Boley, Brown, Caputo, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Azinger, Baldwin, Clements, Geffert, Grady, Karnes, Martin, Maynard, Roberts, and Smith—10.

Absent: Stover—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. 100) passed.

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

Eng. Com. Sub. for Senate Bill 100—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; to amend and reenact §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-7 and, §29-22C-8 of said code; to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing that the original venue must remain in operation; providing that the original venue continue to offer amenities, accommodations, options and services

at the same level; providing for a local option election, defining terms; providing Lottery Commission authority to regulate secondary locations; providing for rulemaking; and providing for licensing of secondary locations.

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 232, Relating to punishment for third offense felony.

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, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Brown—1.

Absent: Stover—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. 232) 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 424, Relating generally to 2022 Farm Bill.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Romano, 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:

CHAPTER 11. TAXATION.

ARTICLE 13DD. WEST VIRGINIA FARM-TO-FOOD BANK TAX CREDIT.

§11-13DD-3. Amount of credit; limitation of credit.

(a) There is allowed to farming taxpayers who make donations of edible agricultural products to one or more nonprofit food programs in this state, a credit against taxes imposed by §11-21-1 *et seq.* and §11-24-1 *et seq.* of this code in the amount set forth in this section.

(b) The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed ~~\$2,500~~ \$5,000 during a taxable year or the total amount of tax imposed by §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code, whichever is less, in the year of donations.

(c) If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code to each of the next four taxable years unless sooner used.

(d) No more than \$200,000 of tax credits may be allocated by the department in any fiscal year. The department shall allocate the tax credits in the order the donation forms are received.

(e) It is the intent of the Legislature in enacting the amendments to this section during the regular session of the Legislature, 2022, that the amendments be applied retroactively to apply to any donations of qualifying edible agricultural products to one or more nonprofit food programs in this state made on or after January 1, 2022.

CHAPTER 19. AGRICULTURE.**ARTICLE 1. DEPARTMENT OF AGRICULTURE.****§19-1-4a. Commissioner authorized to accept gifts, etc., and enter into cooperative agreements.**

Notwithstanding any provision of this code to the contrary, The the Commissioner of Agriculture is hereby empowered and he or she shall have authority to accept and receive donations, gifts, contributions, grants, and appropriations of money, services, materials, real estate, or other things of value from the United States Department of Agriculture, the United States Food and Drug Administration, the United States Environmental Protection Agency, any other agency of the United States government, or any of ~~its~~ their divisions or bureaus, and he or she shall have authority to use, utilize, develop, or expend such money, services, material, or other contributions in conformity with the conditions and provisions set forth in such grants, appropriations, or donations.

~~By and with the approval of the Governor, the~~ The commissioner may accept and receive donations, gifts, contributions, and grants of money, services, materials, real estate, and other things of value from individuals, partnerships, associations, or corporations, and he or she shall have authority to utilize such contributions to encourage, promote, and develop the agricultural interests or industries of the state.

The commissioner is hereby empowered, and he or she shall have authority to enter into agreements with any department of state government for the purpose of carrying out any regulatory laws where or when any related functions or duties exist. He or she shall also have authority to enter into agreements with any city council or county ~~county~~ commission of the State of West Virginia, for carrying out the provisions of the agricultural laws over which he or she has enforcement authority.

§19-1-10. Requirement for social security number on applications.

[Repealed.]

§19-1-11. Rural Rehabilitation Loan Program.

(a) The Rural Rehabilitation Loan Program is an important tool for the Department of Agriculture to promote investment in the agricultural industry in the state. Rules are needed for the loan program to remain viable.

(b) The commissioner shall propose emergency and legislative rules for approval in accordance with §29A-3-1 *et seq.* of this code. The rules shall, at a minimum:

(1) Establish minimum requirements and qualifications for the loan committee, including the addition of public members who have agricultural or business loan experience;

(2) Prohibit department employees and loan committee members, and their immediate family members, from receiving program loans;

(3) Establish minimum financial requirements for receiving a program loan;

(4) Require loans to be used for agricultural or related purposes;

(5) Require collateral sufficient to secure the loan;

(6) Establish policies for the application, applicable interest rates, delinquencies, refinancing, collection proceedings, collateral requirements, and other aspects of the loan program;

(7) Require the department to advertise the loan program to the public, including information on the department's website and in the department's market bulletin; and

(8) Transfer the servicing of the program loans to a financial institution via competitive bid or to the State Treasurer's office or other governmental entity.

~~(c) The commissioner shall file an annual report to the Joint Committee on Government and Finance regarding the loan program, including information about the loans awarded, loans~~

~~repaid, loans outstanding, interest rates, delinquency and collections, and other pertinent data~~

(d) The commissioner shall not be required to utilize the services of the state agency for surplus property for the disposition of items purchased by participants in the loan program and subsequently repossessed by the committee to be sold in order to satisfy the balance of an outstanding loan.

§19-1-13. Annual reporting to the Legislature.

On or before January 31 of each year, the commissioner shall file a report with the President of the State Senate, the Speaker of the House, and the Joint Committee on Government and Finance detailing the activities of the department, including all boards and commissions under the commissioner's authority, during the preceding fiscal year. The report shall include all donations, gifts, contributions, grants, and appropriations of money, services, materials, real estate, or other things of value accepted and received by the department. A copy of the commissioner's annual report shall also be provided to the Division of Archives and History to be kept as a permanent record of the state. nonmotorized

ARTICLE 9. DISEASES AMONG DOMESTIC ANIMALS.

§19-9-7a. ~~National Animal Identification System~~ Animal disease traceability; rulemaking; exemption.

West Virginia shall be a participating state in the United States Department of Agriculture's ~~National Animal Identification System~~ Animal Disease Traceability program. The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code governing the collection of farm premises and animal identification data.

The premises and animal identification data collected by the commissioner in accordance with the requirements of the ~~National Animal Identification System~~ Animal Disease Traceability program are specifically exempt from disclosure under the provisions of §29B-1-1 *et seq.* of this code.

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**§19-12E-4. Industrial hemp authorized as agricultural crop; license required.**

(a) Industrial hemp is considered an agricultural crop in this state if grown for the purposes authorized by the provisions of this article. Upon meeting the requirements of §19-12E-5 of this code, an individual in this state may plant, grow, harvest, possess, process, sell, or buy industrial hemp.

(b) A person shall not cultivate, handle, or process industrial hemp in this state unless the person holds an industrial hemp license issued ~~by the department~~ by this state.

§19-12E-5. Industrial hemp; licensing.

(a) A person growing industrial hemp shall apply to the commissioner for a license on a form prescribed by the commissioner.

(b) The application for a license must include the name and address of the applicant and the legal description and global positioning coordinates of the land area to be used to produce industrial hemp.

(c) The commissioner shall require each first-time applicant and may establish requirements for other persons involved with the industrial hemp program, to submit to a state and national criminal history record check. The criminal history record check shall be based on fingerprints submitted to the State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(1) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints; and

(B) Authorizing the board, the State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(2) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(3) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(4) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(d) If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid until December 31 of the year of application: *Provided*, That an individual applying to renew a current license may continue to operate under an existing license, as long as his or her completed renewal application has been submitted to the department on or before the deadline established by the department.

(e) Any person seeking to grow, cultivate, or process industrial hemp shall provide to the department prior written consent allowing the department, State Police, and other state and local law-enforcement agencies to enter onto all premises where industrial hemp is grown, cultivated, processed, or stored to conduct physical inspections or otherwise ensure compliance with the requirements of this code and the legislative rules promulgated pursuant to this code.

(f) In the alternative, the commissioner may choose to recognize industrial hemp grower licenses issued by the United States Department of Agriculture.

~~(f)~~ (g) Sale of industrial hemp products —

(1) Notwithstanding any provision of the code to the contrary, a person need not obtain a license to possess, handle, transport, or sell hemp products or extracts, including those containing one or more hemp-derived cannabinoids, including CBD.

(2) Hemp-derived cannabinoids, including CBD, are not controlled substances or adulterants.

(3) Products containing one or more hemp-derived cannabinoids, such as CBD, intended for ingestion are to be considered foods, not controlled substances or adulterated products.

(4) Applicable state agencies shall make available any and all customary registrations to the processors and manufacturers of hemp products.

(5) Retail sales of hemp products may be conducted when the products and the hemp used in the products were grown and cultivated legally in another state or jurisdiction and meet the same or substantially the same requirements for processing hemp products or growing hemp under this article and rules promulgated under §19-2E-7 of this code.

(6) Notwithstanding any other provision of this code to the contrary, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for animal or human consumption, and the addition is not considered an adulteration of the products.

(7) Hemp and hemp products may be legally transported across state lines, and exported to foreign nations, consistent with U.S. federal law and laws of respective foreign nations.

ARTICLE 15. WEST VIRGINIA FERTILIZER LAW.**§19-15-11. Publications.**

[Repealed.]

ARTICLE 15A. WEST VIRGINIA AGRICULTURAL LIMING MATERIALS LAW.**§19-15A-4. Inspection fee; report of tonnage; annual report.**

(a) Each sales invoice prepared in normal course of business by either a registrant or distributor shall reflect the amount of the inspection fee and the name of the payor.

(b) Within 30 days following June 30 and December 31, of each year, each registrant and distributor shall submit on a form furnished by the commissioner a summary of tons of each agricultural liming material sold or distributed by each registrant and distributor in the state during the previous six months' period. The report of tonnage shall be accompanied by payment of an inspection fee as established by legislative rule. If the tonnage, or portion thereof, has been paid by another person, documentation by invoice must accompany such report. The semiannual payment and late fee shall be established by legislative rule.

~~(c) The commissioner shall publish annually on the Department of Agriculture's website a composite report showing the net tons of agricultural liming material sold in this state during the preceding period. This report may not divulge information that can be related to the business of any individual registrant~~

ARTICLE 16. WEST VIRGINIA SEED LAW.**§19-16-6. Duties and authority of Commissioner of Agriculture.**

The commissioner may:

(a) Establish by legislative rule germination standards for agricultural, vegetable, tree and shrub, or flower seeds;

(b) Enter and inspect, during reasonable hours, any location where agricultural, vegetable, tree and shrub, or flower seeds, or seed potatoes for sowing purposes are manufactured, distributed, transported, or used, and where records relating to the manufacture, distribution, shipment, labeling, or sale of seed are kept. This inspection shall include, but is not limited to, examining, photographing, verifying, copying, and auditing records as is necessary to determine compliance with this article, labels, consumer complaints, and papers relating to the manufacturing, distribution, sampling, testing, and sale of agricultural, vegetable, tree and shrub seeds, or seed potatoes;

(c) Open, examine, sample, and test agricultural, vegetable, tree and shrub, or flower seed, or seed potatoes, equipment, containers, transport containers, and packages used or intended to be used in the manufacture and distribution of seeds used for sowing purposes;

(d) Issue certificates of registration pursuant to this article;

(e) Refuse applications for registration, or suspend or revoke registrations as provided in this article;

(f) Issue "stop sale or embargo" orders as provided in this article;

(g) Condemn and confiscate any agricultural, vegetable, tree and shrub, or flower seed, or seed potato that is not brought into compliance with this article;

(h) Collect fees and penalties and expend moneys under the terms of this article;

(i) Conduct sampling in accordance with the official methods as established by the Association of American Seed Control Officials, the United States Department of Agriculture, or the Association of Official Seed Analysts;

(j) Conduct hearings as provided by this article;

(k) Assess civil penalties and refer violations to a court of competent jurisdiction;

(l) Obtain court orders directing any person refusing to submit to inspection, sampling, and auditing to submit;

(m) Establish and maintain seed testing facilities, establish reasonable fees for the tests, incur expenses, and conduct tests in accordance with the Association of Official Seed Analysts;

(n) Be guided by the analytical results of the official sample when determining whether the agricultural, vegetable, tree and shrub, or flower seed is deficient in any component;

(o) Report the analytical results on all official deficient samples to the registrant, dealer, purchaser if known, and or the distributor;

(p) Upon request made within 30 days from the date the official sample results are reported, furnish a portion of the official sample to the registrant;

~~(q) Publish and distribute annually a composite report containing: (1) The sales of agricultural, vegetable, tree and shrub, or flower seed, and seed potatoes during the preceding period; (2) the results of analysis of official samples as compared with the guarantee on the label; (3) the firms responsible for the product; and (4) such other data the commissioner considers necessary: *Provided, That the information on production and use provided does not disclose the operations of any person*~~

(†) Cooperate with and enter into agreements with governmental agencies of this state and other states, agencies of the federal government and foreign governments, and private associations in order to carry out the purpose and provisions of this article;

(‡) (r) Establish fees by legislative rule;

(†) (s) Propose rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code;

~~(u)~~ (t) Promulgate emergency rules within 90 days of the passage of this bill into law; and

~~(v)~~ (u) Inspect and approve seed conditioning facilities in the state, issue permits, and establish fees.

ARTICLE 16A. WEST VIRGINIA PESTICIDE CONTROL ACT.

§19-16A-21. Violations.

It is unlawful for any person to manufacture, distribute, sell or offer for sale, use or offer to use:

(1) Product registration. — (A) Any pesticide which is not registered pursuant to the provisions of this article, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representation made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration, in the discretion of the commissioner, a change in the labeling or formula of a pesticide may be made, within a registration period, without requiring registration of the product, however, changes are not permissible if they lower the efficiency of the product.

(B) Any pesticide sold, offered for sale, or offered for use which is not in the registrant's or the manufacturer's unbroken container and to which there is not affixed a label, visible to the public, bearing the following information:

(i) The name and address of the manufacturer, registrant, or person for whom manufactured;

(ii) The name, brand, or trademark under which the pesticide is sold; and

(iii) The net weight or measure of the content, subject to such reasonable variation as the commissioner may permit.

(C) Any pesticide which contains any substance or substances in quantities highly toxic to ~~man~~ humans, unless the label bears, in addition to any other matter required by this article:

(i) A skull and crossbones;

(ii) The word "poison" prominently in red, on a background of distinctly contrasting color; and

(iii) A statement of an antidote for the pesticide.

(D) The pesticides commonly known as lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules issued in accordance with this article, or any other white powder pesticide which the commissioner, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of coloration or discoloration, by rules, requires to be distinctly colored or discolored, unless it has been so colored or discolored. The commissioner may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this subsection if he or she determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(E) Any pesticide which is adulterated or misbranded, or any device which is misbranded.

(F) Any pesticide that is subject of a stop sale, use, or removal order provided for hereinafter in this article until such time as the provisions of that section hereafter have been met.

(2) Business/applicator violations. — In addition to imposing civil penalties or referring certain violations for criminal prosecution the commissioner may, after providing an opportunity for a hearing, deny, suspend, modify, or revoke a license issued under this article, if he or she finds that the applicant, or licensee, or his or her employee has committed any of the following acts, each of which is declared to be a violation:

(A) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(B) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the commissioner: *Provided*, That such deviation may include provisions set forth in section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.), as the same is in effect on the effective date of this article, disposed of containers or unused portions of pesticide inconsistent with label directions or the rules of the commissioner in the absence of label directions if those rules further restrict such disposal;

(C) Acted in a manner to exhibit negligence, incompetence, or misconduct in acting as a pesticide business;

(D) Made false or fraudulent records, invoices, or reports;

(E) Failed or refused to submit records required by the commissioner;

(F) Used fraud or misrepresentation, or presented false information in making application for a license or renewal of a license, or in selling or offering to sell pesticides;

(G) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted rules;

(H) Provided or made available any restricted use pesticide to any person not certified under the provisions of this article or rules issued hereunder;

(I) Made application of any pesticide in a negligent manner;

(J) Neglected or, after notice, refused to comply with the provisions of this article, the rules adopted hereunder or of any lawful order of the commissioner;

(K) Refused or neglected to keep and maintain records or reports required under the provisions of this article or required

pursuant to rules adopted under the provisions of this article or refused to furnish or permit access for copying by the commissioner any such records or reports;

(L) Used or caused to be used any pesticide classified for restricted use on any property unless by or under the direct supervision of a certified applicator;

(M) Made false or misleading statements during or after an inspection concerning any infestation of pests found on land;

(N) Refused or neglected to comply with any limitations or restrictions on or in a duly issued certification;

(O) Aided, abetted, or conspired with any person to violate the provisions of this article, or permitted one's certification or registration to be used by another person;

(P) Impersonated any federal, state, county, or city inspector or official;

(Q) Made any statement, declaration, or representation through any media implying that any person certified or registered under the provisions of this article is recommended or endorsed by any agency of this state;

(R) Disposed of containers or unused portions of pesticide inconsistent with label directions or the rules of the commissioner in the absence of label directions if those rules further restrict such disposal;

(S) Detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this article or the rules promulgated under the provisions of this article; ~~or~~

(T) Refuse, upon a request in writing specifying the nature or kind of pesticide or device to which such request relates, to furnish to or permit any person designated by the commissioner to have access to and to copy such records of business transactions as may be essential in carrying out the purposes of this article; or

(U) Violated or been convicted or is subject to a final order assessing a penalty pursuant to §14(a) or (b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 *et seq.*).

ARTICLE 20C. WEST VIRGINIA SPAY NEUTER ASSISTANCE PROGRAM.

§19-20C-3. Rulemaking; annual report.

(a) The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this article.

(b) Rules promulgated under this section shall, at a minimum:

(1) Identify the types of nonprofit organizations and programs that qualify for spay neuter grants;

(2) Establish parameters for spay neuter grants;

(3) Establish procedures and requirements for grant applications; and

(4) Establish administration, recordkeeping, and reporting requirements for nonprofit organizations and programs that receive spay neuter grants.

~~(c) Beginning the year following the program's inception, the commissioner shall file an annual report with the Joint Committee on Government and Finance regarding the program, funds received and grants awarded, the number of dogs and cats sterilized and other pertinent data~~

ARTICLE 36. AGRITOURISM RESPONSIBILITY ACT.

§19-36-5. Maintenance of property status for certain purposes; exceptions.

(a) Notwithstanding any provision of this code to the contrary, the occurrence of agritourism does not change the nature or use of

property that otherwise qualifies as agricultural for building code, zoning, ~~and~~ or property tax classification purposes.

(b) An agritourism business may use certain of its facilities for occasional events without complying with building and fire codes applicable to structures used for such purposes on a full-time basis ~~as long as~~ if such facilities are deemed structurally sound and otherwise safe for the intended use.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 424 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 424) passed.

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

Eng. Com. Sub. for Senate Bill 424—A Bill to repeal §19-1-10 of the Code of West Virginia, 1931, as amended; to repeal §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-3a, §19-2C-3b, §19-2C-4, §19-2C-5, §19-2C-5a, §19-2C-5b, §19-2C-6, §19-2C-6a, §19-2C-6b, §19-2C-6c, §19-2C-7, §19-2C-8, §19-2C-8a, §19-2C-9, §19-2C-9a, and §19-2C-10 of said code; to repeal §19-15-11 of said

code; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto a new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code; and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, §30-43-3, §30-43-3a, §30-43-3b, §30-43-4, §30-43-5, §30-43-5a, §30-43-5b, §30-43-6, §30-43-6a, §30-43-6b, §30-43-6c, §30-43-7, §30-43-8, §30-43-8a, §30-43-9, §30-43-9a, §30-43-10, §30-43-11, and §30-43-12, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee on Government and Finance; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; repealing auctioneers article and transferring regulation of auctioneers from Department of Agriculture to Secretary of State effective July 1, 2023; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on seed law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report with Joint

Committee on Government and Finance; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes; creating article transferring regulation of auctioneers from the Department of Agriculture to the Secretary of State effective July 1, 2023; providing for definitions; license requirement; exceptions; license application procedure; rulemaking; special revenue fund; bond requirement; requirements for auctioneer and apprentice auctioneer license; examination and background check of applicants; investigation of complaints; duties and responsibilities of apprentice auctioneer and sponsoring auctioneer; procedure for obtaining reciprocal or nonresident licenses; orders and hearings and review by secretary; penalties; suspension, denial, or revocation of licenses; auctioneer contracts; escrow accounts; advertising; effective date of article; and honoring prior licenses and pending applications.

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 574, Relating to WV PEIA.

Having been read a third time on February 25, 2022, 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 590, Clarifying that tenancy includes persons who reside in sober living home.

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

Pending discussion,

(Senator Weld in the Chair.)

Pending discussion,

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

The question being "Shall Engrossed Committee Substitute for Senate Bill 590 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 590) passed with its title.

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

Eng. Com. Sub. for Senate Bill 648, Relating to Cable Television Systems Act.

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. Com. Sub. for Senate Bill 662, Relating to creation, expansion, and authority of resort area district.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 662) 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 721, Relating to municipalities required to be represented on county authority boards.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 721) passed.

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

Eng. Senate Bill 721—A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to municipalities required to be represented on county authority

boards; and providing that only municipalities with 1,000 or more residents are required to be represented on a county authority board.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 721) 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 4084, Relating to advanced recycling.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 4084) 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 4491, To establish requirements for carbon dioxide sequestration.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 4491) 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 29, Providing fee for processing of criminal bonds.

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 181, Creating Core Behavioral Health Crisis Services System.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 181 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 181 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 181) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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 Com. Sub. for S. B. 181) takes effect from passage.

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

Com. Sub. for Senate Bill 205, Expanding PEIA Finance Board membership.

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 223, Relating to procedure to settle decedents' estates.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Beach—1.

Absent: Stover—1.

Engrossed Committee Substitute for Senate Bill 223 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 223) passed with its title.

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

Com. Sub. for Senate Bill 266, Adding definition of "ammunition" for purposes of obtaining state license to carry concealed deadly weapon.

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 413, Clarifying crime of harassment to include stalking.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady,

Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

Engrossed Committee Substitute for Senate Bill 413 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 413) passed with its title.

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

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Takubo, at 12:34 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:03 p.m. and, without objection, returned to the third order of business.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

March 1, 2022

The Honorable Lee Cassis, Clerk
West Virginia Senate
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for Senate Bill No. Four Hundred Forty-Five (445), which was presented to me on February 23, 2022.

You will note that I have approved this bill on March 1, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

The Senate again proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 552, Relating to tax sale process.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 25, 2022;

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, unanimous consent being granted, the bill (Com. Sub. for S. B. 552) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

The Senate again proceeded to the ninth order of business, the next bill coming up in numerical sequence being

Com. Sub. for Com. Sub. for Senate Bill 434, Updating authority to airports for current operations.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 448 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 448) passed with its title.

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

Senate Bill 456, Requiring county boards of education to develop seizure action plans.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 456 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 456) passed with its title.

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

Com. Sub. for Com. Sub. for Senate Bill 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 498, Creating Anti-Racism Act of 2022.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 518, Allowing nurses licensed in another state to practice in WV.

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 530, Encouraging public-private partnerships in transportation.

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 606, Relating to WV Medical Practice 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 610, Relating to duties, powers and responsibilities of DOT Secretary.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 610 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 610 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 610) passed with its title.

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

Senate Bill 617, Relating to qualifications for members of boards, commissions, and other entities.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 617 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 617) passed with its title.

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

Com. Sub. for Senate Bill 632, Making Office of Emergency Medical Services independent office within Executive Branch.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 645, Regulating private schools for students with disabilities.

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 647, Prohibiting discrimination in organ donation process.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 647 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 647) passed with its title.

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

Com. Sub. for Senate Bill 649, Requiring communication providers providing service or obtaining WV area codes to register with PSC.

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 652, Requiring hospitals to receive patients transported to them by EMS providers.

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 referred to the Committee on Rules.

Com. Sub. for Senate Bill 653, Relating to public higher education governance.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 655, Authorizing tactical medical professional to carry firearm with specific training requirements.

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 656, Providing tax credit for certain corporations with child-care facilities for employees.

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

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

On suspending the constitutional rule, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 656 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 656) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—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. 656) takes effect July 1, 2022.

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

Com. Sub. for Senate Bill 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements.

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 668, Clarifying eligibility for probation and parole conditions for sex 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 671, Modernizing regulation of car-sharing services in WV.

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 6F. PEER-TO-PEER CAR SHARING PROGRAMS.

§17A-6F-1. Scope.

This article is intended to govern the intersection of peer-to-peer car services, the state-regulated business of insurance, and state and local taxation of the business transaction. ~~and the airport and airport authorities authority to regulate peer to peer car services provided to airport customers~~ This article does not void, abrogate, restrict, or affect any requirements of §17A-6D-1 *et seq.* of this code relating to daily passenger rental car business or §17A-6A-1 *et seq.* of this code relating to motor vehicle dealers, distributors, wholesalers, and manufacturers.

§17A-6F-2. Definitions.

As used in this article:

"Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. "Peer-to-peer car sharing" is not a "daily passenger rental car business" as licensed by the provisions of §17A-6D-1 *et seq.* of this code.

"Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer car sharing program" does not mean a service provider who is solely providing hardware or software as a service to a person or entity that is not

effectuating payment of financial consideration for use of a shared vehicle. For purposes of this section, "hardware" does not mean a motor vehicle as defined by the provisions of §17A-1-1(b). "Peer-to-peer car sharing program" does not mean a "daily passenger rental car business" as licensed by the provisions of §17A-6D-1 *et seq.* of this code. "Peer-to-peer car sharing program" does not include a program provided to a business's own employees.

"Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. "Car sharing program agreement" does not mean "master rental agreement" or "rental agreement" as used in §17A-6D-1 *et seq.* of this code.

"Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. "Shared vehicle" does not mean a rental car or a rental vehicle as used in a "daily passenger rental car business" licensed by the provisions of §17A-6D-1 *et seq.* of this code.

"Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement.

"Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

"Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

"Car sharing period" means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time, and in either case ends at the car sharing termination time.

"Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

"Car sharing termination time" means the earliest of the following events:

The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program, and which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

§17A-6F-3. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist ~~and personal injury protection~~ losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than ~~\$750,000~~ \$300,000.

(b) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car

sharing program before the car sharing period in which the loss occurred, or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property damage, uninsured and underinsured motorist, ~~or personal injury protection~~ losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the amounts set forth in ~~subsection (a) §17D-4-2 and §33-6-31 of this code~~ and either:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (e) of this section that is satisfying the insurance requirement of subsection (d) of this section shall be the primary insurance during each car sharing period. If a claim occurs during the car sharing period in another state with minimum financial responsibility limits higher than required by §17D-4-2 of this code, the coverage maintained under subsection (e) of this section shall satisfy the minimum financial responsibility limits of such other state, up to the applicable policy limits that may exceed the minimum financial responsibility limits.

(g) The insurer, insurers, or peer-to-peer car sharing program providing coverage under shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required under subsections (d) and (e) of this section and shall assume primary liability for a claim when:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; ~~and (2) The, and the peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article §17A-6F-6 of this code; or~~

(2) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by the definition of car sharing termination time as defined in §17A-6F-2 of this code.

~~(3)~~ (h) The insurer, insurers, or A peer-to-peer car sharing program providing coverage under subsection (g) of this section may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

~~(h)~~(i) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to

defend such claim except under circumstances as set forth in this section.

(i) (j) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

(j) (k) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

~~(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer to peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation~~

§17A-6F-5. Exclusions for personal vehicle liability insurance policy.

(a) A motor vehicle insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared

vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- ~~(2) Personal injury protection coverage;~~
- ~~(3)~~ (2) Uninsured and underinsured motorist coverage;
- ~~(4)~~ (3) Medical payments coverage;
- ~~(5)~~ (4) Comprehensive physical damage coverage; and
- ~~(6)~~ (5) Collision physical damage coverage.

(b) Nothing in this article ~~shall~~ may be construed as invalidating or limiting an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(c) Nothing in this article may be interpreted as either limiting or restricting an insurer's ability to exclude insurance coverage from any insurance policy or an insurer's ability to underwrite any insurance policy pursuant to § 33-6A-1 *et seq.* of this code.

§17A-6F-7. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability ~~in accordance~~ consistent with 49 U.S.C. §30106 and under any state or local law that imposes liability solely based on vehicle ownership.

§17A-6F-13. Registration, notification, and automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(2) Notify the shared vehicle owner of the requirements of subsection (b) of this section; and

(3) Notify the shared vehicle owner that the shared vehicle owner's personal insurance may exclude peer-to-peer car sharing activity.

(b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

The bill (Com. Sub. for S. B. 671), as amended, was then ordered to engrossment and third reading.

Senate Bill 680, Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 686, Clarifying use of notes and bonds of WV Housing Development Fund.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 686 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 686) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—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. 686) takes effect from passage.

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

Senate Bill 687, Relating to meetings among county boards of education.

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

Senate Bill 693, Clarifying meeting voting requirements for political party executive committees.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Boley—1.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 693 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Boley—1.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 693) passed.

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

Eng. Senate Bill 693—A Bill to amend and reenact §3-1-9 of the Code of West Virginia, 1931, as amended, relating to manner of voting by a political party executive committee; and eliminating requirement that all official actions of a political party executive committee shall be made by voice vote.

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

Com. Sub. for Senate Bill 697, Modifying and clarifying elements of kidnapping and unlawful restraint.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 697 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 697) passed with its title.

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

Senate Bill 703, Relating to controlled substances schedule.

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 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

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

Senate Bill 711, Establishing alternative educational opportunities for elective course credit.

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

Senate Bill 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

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

Senate Bill 727, Directing ABC Administration discontinue purchase of alcoholic liquors from Russian Federation.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Maroney, Stover, and Woelfel—3.

Engrossed Senate Bill 727 was then read a third time and put upon its passage.

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

The question being "Shall Engrossed Senate Bill 727 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 727) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—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. 727) takes effect from passage.

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

Senate Bill 728, Requiring registered sex offenders pay annual fee.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 729, Relating to funding for infrastructure and economic development projects in WV.

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

Senate Bill 730, Divesting state-managed funds from companies engaged with Russia or Russian energy.

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

Eng. House Bill 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Karnes, Brown, and Rucker.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 28, 2022:

Com. Sub. for Senate Bill 434: Senator Woodrum.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 28, 2022:

Senate Bill 52: Senator Maynard;

Senate Bill 687: Senator Rucker;

Senate Resolution 41: Senator Baldwin;

Senate Resolution 42: Senator Baldwin;

Senate Resolution 43: Senators Caputo, Rucker, Lindsay, Jeffries, and Stollings;

Senate Resolution 44: Senators Rucker and Lindsay;

And,

Senate Resolution 45: Senators Caputo, Rucker, Lindsay, Jeffries, and Stollings.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 4:51 p.m., the Senate adjourned until tomorrow, Wednesday, March 2, 2022, at 9 a.m.

WEDNESDAY, MARCH 2, 2022

The Senate met at 9:16 a.m.

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

Prayer was offered by Pastor Matt Davis, Church at the Depot, Scott Depot, 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 Tuesday, March 1, 2022,

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 2nd day of March, 2022, 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:

(Rev. Com. Sub. for S. B. 221), Establishing occupational therapy compact.

(Com. Sub. for S. B. 452), Permitting civil remedies for unauthorized disclosure of intimate images.

And,

(H. B. 3303), Relating to clarifying the process of filling vacancies on ballots.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

Senate Bill 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue.

Senate Bill 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development.

Senate Bill 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board.

Senate Bill 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund.

Senate Bill 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees.

Senate Bill 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund.

Senate Bill 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund.

Senate Bill 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund.

Senate Bill 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority.

And,

Senate Bill 725, Supplementing and amending appropriations to DHS, WV State Police.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Concurrent Resolution 49, Establishing Honor Guard in each National Guard unit.

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

Respectfully submitted,

Ryan W. Weld,
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 2817, Donated Drug Repository Program.

And has amended same.

And,

Eng. House Bill 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
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 4252, To reduce copay cap on insulin and devices.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Maroney, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4252) contained in the preceding report from the Committee on Health and Human Resources was then referred to the Committee on Finance, with amendments from the Committee on Health and Human Resources pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

And has amended same.

Eng. Com. Sub. for House Bill 4380, Relating to transportation of athletic teams.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4489, Require counties to post open positions on statewide job bank.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maynard, 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 4282, Relating to establishing next generation 911 services in this state.

Eng. House Bill 4286, Relating to exempting persons employed as attorneys from the civil service system.

And,

Eng. House Bill 4517, Relating to the repealing requirements to display video ratings.

And reports the same back with the recommendation that they each 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 4288, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

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 Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4291, Relating to authorizing legislative rules regarding higher education.

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

Respectfully submitted,

Patricia Puertas Rucker,
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 4324, To update collaborative pharmacy practice agreements.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
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

Eng. Com. Sub. for House Bill 4345, Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

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

Respectfully submitted,

Charles H. Clements,
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 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

And,

Eng. Com. Sub. for House Bill 4631, Establishing a bone marrow and peripheral blood stem donation awareness program.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
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

House Concurrent Resolution 23, Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

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.

Senators Romano, Martin, Blair (Mr. President), Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum offered the following resolution:

Senate Resolution 47—Memorializing the life of the Honorable Joseph Michael Minard, husband, father, veteran, restaurateur, statesman, former member of the West Virginia Senate, former member of the West Virginia House of Delegates, former Clerk of the Senate, and dedicated public servant.

Whereas, The Honorable Joseph Michael Minard was born in Clarksburg, West Virginia, on January 5, 1932, son of the late Michael Joseph and Rose Oliverio Minard; and

Whereas, The Honorable Joseph Michael Minard was a graduate of St. Marys High School and later attended college at West Virginia University where he earned a bachelor's degree in business administration; and

Whereas, The Honorable Joseph Michael Minard was a veteran of the United States Army having served stateside during the Korean Conflict; and

Whereas, Since 1955, the Honorable Joseph Michael Minard was the owner and operator of Minard's Spaghetti Inn in Clarksburg, West Virginia, a business started by his parents which is now being run by his family; and

Whereas, The Honorable Joseph Michael Minard was a member of the West Virginia Senate, where he represented the citizens of the 12th Senatorial District for five terms, from 1990 to 1994 and from 1998 to 2013. Senator Minard was elected as the 20th Clerk of the Senate in 2013, where he served one term; and

Whereas, During his tenure as a member of the West Virginia Senate, the Honorable Joseph Michael Minard served as President Pro Tempore, as Chairman of the Committee on Banking and Insurance, and as a member of the Committees on Agriculture, Energy, Industry and Mining, Government Organization, and the Judiciary. He also served as the Senate Chair of the Legislative Rule-Making Review Committee; and

Whereas, The Honorable Joseph Michael Minard served in the West Virginia House of Delegates from 1983 to 1990; and

Whereas, After his service in the Legislature, the Honorable Joseph Michael Minard continued his service to the people of Harrison County as member of the Harrison County Commission; and

Whereas, The Honorable Joseph Michael Minard was a member of Immaculate Conception Catholic Church, the Columbian Club, Sons of Italy, Knights of Columbus, Clarksburg Lion's Club, Clarksburg Serra Club, and the WVU Alumni Association; and

Whereas, Sadly, the Honorable Joseph Michael Minard passed away at the age of 90 on January 17, 2022, bringing an end to a life well lived devoted to faith, family, and public service, and leaving behind a grateful community, state, and nation, and a host of family and friends, all of whom will miss him dearly; and

Whereas, The Honorable Joseph Michael Minard was twice married, having been preceded in death by his first wife, JeanAnn DeMeester Minard in 1964, and his second wife, Mary Contento Minard who preceded him in death on November 13, 2021. Surviving are two sons, Michael Minard and his wife Mary of Morgantown and Samuel Minard and his wife Christine of

Charleston; their four daughters, Michele Minard of Buckhannon; Marisa Minard Veltri of Clarksburg; Marcia Black and her husband Dave of Pittsburgh; and Maria Yoakum and her husband Kenneth of Charleston. The Honorable Joseph Minard is also survived by his sister, Patricia Ann Hostutler and husband Tom of Virginia Beach, VA; 15 grandchildren; four great-grandchildren; and several nieces and nephews; and

Whereas, It is fitting that we pay tribute to the life and legacy of the Honorable Joseph Michael Minard, a man whose contributions to 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 memorializes the life of the Honorable Joseph Michael Minard, husband, father, veteran, restaurateur, statesman, former member of the West Virginia Senate, former Clerk of the Senate, former member of the West Virginia House of Delegates, and dedicated public servant; and, be it

Further Resolved, That the Senate extends its sincere condolences to the family of the Honorable Joseph Michael Minard on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable Joseph Michael Minard.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Resolution 46, Designating March 2, 2022, as Disability Employment State Use Program Day.

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

At the request of Senator Lindsay, 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 Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 46) adopted.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 29, Providing fee for processing of criminal bonds.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 29) 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 205, Expanding PEIA Finance Board membership.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 205) 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 266, Adding definition of "ammunition" for purposes of obtaining state license to carry concealed deadly weapon.

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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 266) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 266) 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 434, Updating authority to airports for current operations.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

On page six, section eight, line forty-nine, after the word "located" by changing the colon to a period and striking out the proviso.

Following discussion,

The question being on the adoption of Senator Plymale's amendment to the bill, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Geffert, Grady, Jeffries, Martin, Maynard, Plymale, Roberts, Romano, Stollings, and Woelfel—13.

The nays were: Azinger, Boley, Brown, Clements, Hamilton, Karnes, Lindsay, Maroney, Nelson, Phillips, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

Absent: Stover—1.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 434 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Sente Bill 434 pass?"

On the passage of the bill, the yeas were: Boley, Clements, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Nelson, Phillips, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—18.

The nays were: Azinger, Baldwin, Beach, Brown, Caputo, Geffert, Grady, Martin, Maynard, Plymale, Roberts, Romano, Stollings, Sypolt, and Woelfel—15.

Absent: Stover—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. 434) 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 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

Eng. Com. Sub. for Senate Bill 498, Creating Anti-Racism Act of 2022.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for Senate Bill 498 was then put upon its passage.

Pending extended discussion,

(Senator Sypolt in the Chair.)

Pending discussion,

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

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 498 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel—12.

Absent: Stover—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. 498) 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 Plymale, and by unanimous consent, the remarks by Senator Brown as to the passage of Engrossed Committee Substitute for Senate Bill 498 were ordered extended in the Journal as follows:

SENATOR BROWN: When I was the State President of the NAACP, I used to get calls also about different things. But the schools took care of them, took care of these issues, and did not go any further with them.

And, you know, for 28 years, when I worked for the WVEA, I was on the Minority Affairs Committee. I was the liaison between the teachers, the African-American teachers, and the WVEA. Also, I was on, with the NEA, I was on the Human and Civil Rights Commission. And we would have conferences from all over the country, people all over the country, and, you know, be trainings and not once had I heard the promotion of any of these issues that was brought forward that they were pressuring teachers to teach critical race theory in the classroom. This was 28 years. And I probably have met with more teachers than everybody in this room

put together. Thousands of teachers. Talking to them for 28 years. And that's in those school systems.

And I know these teachers are very aware and cognitive. And when they hear something like that they were always ready to shut it down or call the child in and speak to them about these issues. My wife was a school teacher. And she would speak to the child and the children were okay with that.

But this is undue pressure in the school system. Teachers do not need more of this.

Let me tell you a little story. I'll end here.

When I was nine years old I tried out for the little league baseball team. Something I had been wanting to do since about six and watching it. And I got cut the first day. You know, I walked home—three quarters of a mile—and, you know, tears, you know, welled up in me. So, when I was 10, I tried out again. I got cut the first day. It wasn't any easier. When I was 11, I tried out again . . . I got cut again. Didn't become any easier after that. But, when I turned 12, I made the team. And I actually became an All Star.

What it was, was this. At the time, they only allowed one black player on the team. And the one black kid who was on the team was a year older than me. But, all through that time, my parents never said anything to me but they knew exactly what was going on. They knew exactly why I wasn't making that team. But they did not say anything to me because they didn't want that to be a crutch for me to fall back on in this life.

And I believe by presenting bills like this, you're giving these kids a crutch to fall back on.

West Virginia is 97 percent Caucasian. Actually, we need more diversity in the classroom, issues in the classroom. Every time we send one of these children out into the world, they become an ambassador to West Virginia. And the classroom should be preparing them. And I truly believe this bill here is a step backwards.

The other side of this bill I see as this. I've seen these bills, saw them in Virginia. CRT bill. It was used as a political tool for politicians because there is a racial undertone with this bill because of the books that have been taken out of the schools have been predominantly African-American books or talking about African-American Even Martin Luther King's book was taken out of some of the schools. And I do believe that some politicians will be using CRT as a weapon, or a tool, in their campaigns. It's happening all over the country. It becomes . . . CRT becomes a trope for some of these campaigns.

You know, one thing I did notice in 2020 after George Floyd was killed . . . I noticed people across the country coming together. White Americans, black Americans, Asian, Hispanic Americans, all in arms, marching together, you know, protesting the inhumanity that had happened. They saw themselves as one. But then

It looked like people were coming together, then all of a sudden I see CRT being thrown out there and a debate, again, trying to divide people. And this is what is happening. CRT was dormant. Has told people over and over, it's not in the public schools. Everybody over there has a high degree, college degree, on the other side. And it's been told to you over and over again that it wasn't taught in the public school. But here we are still trying to say it's being inserted into the public schools for political purposes and for political gain. And that is not right because you're turning people against each other just like in Ohio County last week. It was really bad because of this particular piece of legislation.

Thank you.

Eng. Com. Sub. for Senate Bill 518, Allowing nurses licensed in another state to practice in WV.

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, Brown, Caputo, Clements, Geffert, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Grady, Karnes, and Stover—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. 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 Com. Sub. for Senate Bill 530, Encouraging public-private partnerships in transportation.

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 530 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 530) passed with its title.

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

On motion of Senator Takubo, at 11:14 a.m., the Senate recessed.

The Senate reconvened at 11:27 a.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 552, Relating to tax sale process.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Tuesday, March 1, 2022, for further amendments to be received on third reading, was read a third 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:

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

§ 11A-1-8. Notice of time and place for payment; mailing of tax tickets.

~~(a) The sheriff may give notice by posting at not less than six public places in each magisterial district, for at least ten days before the time appointed, that between the fifteenth day of July and the thirty-first day of August he will attend at one or more of the most public and convenient places in each district, such places to be~~

~~specified in the notice, for the purpose of receiving taxes due by the people residing or paying taxes in such district. The notice shall also state that those who pay the first installment of their taxes on or before the first day of September will be entitled to a discount of two and one-half percent. Like notice may be given that between the fifteenth day of January and the twenty-eighth day of February he will again appear in each district for the collection of taxes, and that those who pay their second installment on or before the first day of March will be entitled to the same discount. Failure of the sheriff to post such lists shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the methods of enforcing the payment of such taxes, interest or penalty.~~

~~The county commission of any county may order that the above notice shall also be given by advertisement. Such an order, once entered, shall continue in effect until rescinded by the county commission. Upon entry of such order, the sheriff shall, besides posting as required above, publish the proper notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty nine of this code, and the publication area for such publication shall be the county. Such notice shall be so published within fourteen consecutive days next preceding the fifteenth day of July or the fifteenth day of January as the case may be. For every failure so to advertise, the sheriff shall forfeit one hundred dollars.~~

~~Notwithstanding the foregoing provisions, the The sheriff shall send to every person owing real or personal property taxes a copy of such taxpayers annual tax ticket or tickets showing what tax is due and how such tax may be paid. Such copy shall be sent to the last known address of such taxpayer by first class United States mail. The notice shall also state: (i) Those who pay the first installment of their taxes on or before the first day of September shall be entitled to a discount of two and one-half percent; and (ii) those who pay the second installment of their taxes on or before the first day of March shall be entitled to the same discount.~~

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right

to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or penalty.

At such time as the sheriff prepares the delinquent list for real property, he or she shall compare such list with a copy of the landbooks most recently delivered by the assessor to the board of review and equalization pursuant to §11-3-19 of this code. The assessor shall make a copy of said landbooks available to the sheriff. If property on the delinquent list should appear as a transfer on said landbooks with the delinquent owner as the transferor, the sheriff shall send to the transferee at his or her last known address by first class United States mail a copy of the annual tax ticket or tickets showing what taxes are due upon the real property of such transferee and how they may be paid as prescribed in this section.

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest, or penalty.

(b) In addition to the notice of real or property taxes owed, provided in this section, the county commission of any county may order that the sheriff include in the mailing notice of any taxes or other fees owed to the county or a municipality in the county.

(c)(1) The sheriff ~~may~~ shall accept credit cards in payment of any of the taxes, interest, or penalty described in this section. The type of credit card accepted shall be at the discretion of the sheriff.

(2) The sheriff may set a fee to be added to each credit card transaction equal to the charge paid by the state, county, sheriff, or taxpayer for the use of the credit card by the taxpayer. Except for fees imposed pursuant to this subdivision, no other fees for the use of a credit card may be imposed upon the taxpayer.

~~(3) Except as provided in subsection (a) of this section, in no event shall the sheriff discount or otherwise reduce the tax liability~~

~~of a taxpayer who has elected to use a credit card for the payment of the tax liability.~~

(d) The tax commissioner may promulgate legislative rules to provide for the payment of tax liability by installment payments other than those prescribed in subsection (a) of this section.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

§ 11A-2-14. Correction of delinquent lists by county ~~court~~ commission; certification to Auditor; recordation.

The sheriff shall on or before ~~June fifteenth~~ May 15 of each year present the delinquent lists to the county ~~court~~ commission for examination. The ~~court~~ county commission having become satisfied that the lists are correct, or having corrected them if erroneous, shall direct the clerk of the ~~court~~ county commission to certify a copy of each list, pertaining to real property, to the Auditor not later than ~~July first~~ June 1 of each year. The original lists shall be preserved by the clerk in his or her office, and the list of delinquent real estate shall be recorded in a permanent book to be kept by him or her for that purpose.

§ 11A-2-18. Redemption before sale; record; lien.

[Repealed.]

ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED, AND WASTE AND UNAPPROPRIATED LANDS.

§11A-3-1. Declaration of legislative purpose and policy.

In view of the paramount necessity of providing regular tax income for the state, county, and municipal governments, particularly for school purposes; and in view of the further fact that delinquent land not only constitutes a public liability, but also represents a failure on the part of delinquent private owners to bear a fair share of the costs of government; and in view of the rights of owners of real property to adequate notice and an opportunity for

redemption before they are divested of their interests in real property for failure to pay taxes or have their property entered on the land books; and in view of the fact that the circuit court suits heretofore provided prior to deputy commissioners' sales are unnecessary and a burden on the judiciary of the state; and in view of the necessity to continue the mechanism for the disposition of escheated and waste and unappropriated lands; now therefore, the Legislature declares that its purposes in the enactment of this article are as follows: (1) To provide for the speedy and expeditious enforcement of the tax claims of the state and its subdivisions; (2) to provide for the transfer of delinquent and non-entered lands to those that will make beneficial use of said lands who are more responsible to, or better able to bear, the duties of citizenship than were the former owners; (3) to secure adequate notice to owners of delinquent and nonentered property of the pending issuance of a tax deed; (4) to permit deputy commissioners of delinquent and nonentered lands to sell such lands without the necessity of proceedings in the circuit courts; (5) to reduce the expense and burden on the state and its subdivisions of tax sales so that such sales may be conducted in an efficient manner while respecting the due process rights of owners of real property; and (6) to provide for the disposition of escheated and waste and unappropriated lands.

§11A-3-2. Second publication of list of delinquent real estate; notice.

(a) On or before the September 10 of each year, the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his or her county remaining delinquent as of the first day of September, together with a notice of sale, in form or effect as follows:

Notice is hereby given that ~~tax liens for~~ the following described tracts or lots of land or undivided interests therein in the County of _____ and the tax liens that encumber the same which are delinquent for the nonpayment of taxes for the year (or years) 20____, will be ~~offered for sale by the undersigned sheriff (or collector) at public auction at the front door of the courthouse of the county, between the hours of nine in the morning and four in the afternoon, on the _____ day of _____, 20____~~

certified to the Auditor for disposition pursuant to West Virginia Code §11A-3-44 on the 31st day of October, 20.

Upon certification to the Auditor, Tax tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, ~~will~~ shall be sold at public auction to the highest bidder in an amount which shall not be less than the taxes, interest, and charges which shall be due thereon to the date of sale, as set forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale

If any of said tracts or lots remain unsold following the auction, they shall be subject to sale by the Auditor without additional advertising or public auction such terms as the Auditor deems appropriate pursuant to §11A-3-48 of this code.

Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before ~~sale~~ certification to the Auditor, of the total amount of taxes, interest, and charges due thereon up to the date of redemption. ~~Payment received within fourteen business days prior to the date of sale must be paid by credit card, cashier's check, money order, certified check or United States currency. Payment must be received in the tax office by the close of business on the last business day prior to the sale certification.~~

After certification to the Auditor, any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon at any time prior to the sale by payment to the Auditor of

the total amount of taxes, interest, and charges due thereon up to the date of redemption.

Given under my hand this _____ day of

_____, 20__.

Sheriff (or collector).

The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

(b) In addition to such publication, no less than 30 days prior to the sale by the Auditor pursuant to § 11A-3-44 of this code, the sheriff shall send a notice of the delinquency and the date of sale by certified mail: (1) To the last known address of each person listed in the land books whose taxes are delinquent; (2) to each person having a lien on real property upon which the taxes are due as disclosed by a statement filed with the sheriff pursuant to the provisions of section three of this article; (3) to each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request for such notice of delinquency; and (4) in the case of property which includes a mineral interest but does not include an interest in the surface other than an interest for the purpose of developing the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by the Tax Commissioner, a request for such notice which identifies the person as an owner of an interest in the surface of real property that is included in the boundaries of such property: *Provided*, That in a case where one owner owns more than one parcel of real property upon which taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single notice which pertains to all such delinquent

parcels. If the sheriff elects to mail only one notice, that notice shall set forth a legally sufficient description of all parcels of property on which taxes are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 of §11A-3-59 of this code.

(c)(4) To cover the cost of preparing and publishing the second delinquent list, a charge of \$25 shall be added to the taxes, interest, and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(d) To cover the cost of preparing and mailing notice to the landowner, lienholder, or any other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be added to the taxes, interest, and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(e) Any person whose taxes were delinquent on the first day of September may have his or her name removed from the delinquent list prior to the time the same is delivered to the newspapers for publication by paying to the sheriff the full amount of taxes and costs owed by the person at the date of such redemption. In such case, the sheriff shall include but \$3 of the costs provided in this section in making such redemption. Costs collected by the sheriff hereunder which are not expended for publication and mailing shall be paid into the General County Fund.

§11A-3-4. Redemption after second publication and before sale certification to the Auditor.

Any of the real estate included in the list published pursuant to the provisions of ~~section two of this article~~ §11A-3-2 of this code may be redeemed at any time before ~~sale~~ certification to the Auditor as provided in ~~section eighteen, article two of this chapter~~ §11A-3-8 of this code. ~~All payments for delinquent real estate taxes received within fourteen business days prior to the date of sale must be paid~~ by cashier check, money order, certified check, or United States currency.

§11A-3-5. Sale by sheriff; immunity; penalty; mandamus.

[Repealed.]

§11A-3-5a. Effective date of transfer of duties for delinquent land sales by sheriff from the county clerk to the State Auditor.

[Repealed.]

§11A-3-5b. Authorization for county clerk to perform duties for delinquent land sales by sheriff.

[Repealed.]

§11A-3-6. Purchase by sheriff, State Auditor, deputy commissioner and clerk of county commission prohibited; co-owner free to purchase at tax sale.

[Repealed.]

§11A-3-7. Suspension from same; amended delinquent lists; subsequent sale.

[Repealed.]

§11A-3-8. Certification of ~~sold and unsold~~ property to the Auditor.

~~(a) If any real estate included in the list published pursuant to the provisions of §11A-3-2 of this code is not redeemed in accordance with §11A-3-4 of this code by October 31 of the year the list was published, no person present bids the amount of taxes, interest and charges due on any real estate offered for sale, the sheriff shall certify the real estate except the sheriff shall include any subsequent taxes due at the time of the list published pursuant to §11A-3-2 of this code to the Auditor for disposition pursuant to section forty four of this article §11A-3-44 of this code, subject, however, to the right of redemption provided by section thirty eight of this article §11A-3-38 of this code. The Auditor shall prescribe the form by which the sheriff certifies the property.~~

~~(b) If the highest bidder present at the sale, as provided in section five of this article, bids and pays, at a minimum, the amount of taxes, interest and charges for which the tax lien on any real estate is offered, the sheriff shall certify the real estate to the State Auditor for disposition pursuant to section fourteen of this article~~

§11A-3-9. Sheriff's list of sales, suspensions, redemptions and certifications; oath.

(a) As soon as the sale certification provided in ~~section five of this article~~ §11A-3-8 of this code has been completed, the sheriff shall prepare a list of all tax liens on delinquent real estate ~~purchased at the sale, or suspended from sale, or redeemed before sale,~~ certification or certified to the Auditor. The heading of the list shall be in form or effect as follows:

List ~~of sales~~ of tax liens on real estate in the county of _____, returned delinquent for nonpayment of taxes thereon for the year (or years) 20____, and ~~sold in the month (or months) of _____, 20____, or suspended from sale, or redeemed before sale~~ certification or certified to the Auditor.

(b) The sheriff shall, at the foot of the list, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, _____, sheriff (or deputy sheriff or collector) of the county of _____, do swear that the above list contains a true account of all the tax liens on real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 20____, which were ~~sold by me or which were suspended from sale or redeemed before sale~~ certification or certified to the Auditor. ~~and that I am not now, nor have I at any time been, directly or indirectly interested in the purchase of any such tax liens~~

(c) Except for the heading and the oath, the Auditor shall prescribe the form of the list.

§11A-3-10. Sheriff to account for proceeds; disposition of surplus.

(a) The sheriff shall account for the proceeds of all ~~sales and redemptions~~ included in such list in the same way he or she

accounts for other taxes collected by him or her, ~~except that if the purchase money paid for any property sold is in excess of the amount of taxes, interest and charges due thereon, the surplus shall be deposited in a special county fund to be known and designated as the "sale of tax lien surplus fund". Where there is a redemption after the sale, the sheriff shall also deposit into said fund the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption, described in subdivision (2), subsection (b), section twenty four of this article. Such surpluses shall be disposed of as follows:~~

~~(1) In any case where the property was redeemed, such surplus shall be distributed to the person or persons who purchased the tax lien thereon, or the heirs, devisees, legatees, executors, administrators, successors or assigns thereof.~~

~~(2) If the purchaser, his heirs, devisees, legatees, executors, administrators, successors or assigns cannot be found within two years from and after the date of redemption, all claims to such surplus shall be barred and such surplus shall be distributed by the sheriff in the manner provided by law for the distribution of property taxes collected by him~~

(b) All real estate included in the first delinquent list sent to the Auditor, and not accounted for in the list of ~~sales, suspensions,~~ redemptions and certifications, shall be deemed to have been redeemed before ~~sale~~ certification, and the taxes, interest, and charges due thereon shall be accounted for by the sheriff as if they had been received by him or her before the sale.

§11A-3-11. Return of list of sales, suspensions and certifications; redemptions.

(a) Within one month after completion of the ~~sale~~ certification, the sheriff shall deliver the original list of ~~sales, suspensions and redemptions and certifications~~ described in ~~section nine of this article~~ §11A-3-9 of this code, with a copy thereof, to the clerk of the county commission. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his or her

office. The clerk, within 10 days after delivery of the list to him or her, shall transmit the copy to the ~~State~~ Auditor, who shall note each ~~sale, suspension,~~ redemption, and certification on the record of delinquent lands kept in his or her office.

(b) Any sheriff who fails to prepare and return the list of ~~sales, suspensions~~ redemptions and certifications within the time required by this section shall forfeit not less than \$50 nor more than \$500, for the benefit of the general school fund, to be recovered by the ~~State~~ Auditor or by any taxpayer of the county on motion in a court of competent jurisdiction. Upon the petition of any person interested, the sheriff may be compelled by mandamus to make out and return the list and the proceedings thereon shall be at his or her cost.

§11A-3-12. Amendment of such list.

If the sheriff shall make any error or omission in the list of ~~sales, suspensions,~~ redemptions and certifications returned to the clerk of the county commission, he or she or any person interested may, within ~~six months~~ 30 days after the sale publication of such list, apply by petition to the county commission for an order permitting or requiring amendment of the list. Any person who ~~might~~ may be prejudiced by the proposed amendment must, if found within the county, be given at least 10 days' notice of such application. Upon proof of the error or mistake the commission shall make an order permitting or requiring the sheriff to file an amended list with the clerk of the commission. The sheriff shall thereupon prepare and deliver to the clerk of the commission the amended list and a copy thereof, with a copy of the order of the commission permitting or requiring it to be filed attached to the list and to the copy. The clerk shall substitute the original of the amended list for the list already in his or her office, and make the necessary corrections on his record of delinquent lands. The clerk shall transmit the copy of the amended list to the Auditor who shall note the corrections on his or her record of delinquent lands.

§11A-3-13. Publication by sheriff of sales certification list.

Within one month after completion of the sale certification, the sheriff shall prepare and publish a list of all the ~~sales and~~ certifications made by him or her, in form or effect as follows,

which list shall be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

List of tax liens on real estate ~~sold~~ in the county of _____, in the month (or months) of _____, 20____, certified for nonpayment of taxes thereon for the year (or years) 20____, and ~~purchased by individuals or~~ certified to the Auditor of the State of West Virginia:

Name of person charged with taxes	Local description of lands	Quantity of land charged	Quantity of land for which tax lien is sold	Name of purchaser	Whole amount paid by purchaser
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The owner of any real estate listed above, or any other person entitled to pay the taxes thereon, may, however, redeem such real estate as provided by law.

Given under my hand this _____ day of _____, 20____.

Sheriff

To cover the costs of preparing and publishing such list, a charge of ~~fifteen~~ \$15 shall be added to the taxes, interest, and charges already due on each item listed.

§11A-3-14. Purchase by individual at tax sale; certificate of sale.

[Repealed.]

§11A-3-15. Certificate of sale assignable.

[Repealed.]

§11A-3-16. Subsequent tax payments by purchaser.

[Repealed.]

§11A-3-17. Sale of subsequent tax liens.

[Repealed.]

§11A-3-18. Limitations on tax liens.

[Repealed.]

§11A-3-19. What purchaser must do before the deed can be secured.

[Repealed.]

§11A-3-20. Refund to purchaser of payment made at sheriff's sale where property is subject of an erroneous assessment or is otherwise nonexistent.

[Repealed.]

§11A-3-21. Notice to redeem.

[Repealed.]

§11A-3-22. Service of notice.

[Repealed.]

§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

[Repealed.]

§11A-3-24. Notice of redemption from purchases; moneys received by sheriff.

[Repealed.]

§11A-3-25. Distribution of surplus to purchaser.

[Repealed.]

§11A-3-26. Certificate of redemption issued by State Auditor; recordation; disposition of redemption money.

[Repealed.]

§11A-3-27. Deed to purchaser; record.

[Repealed.]

§11A-3-28. Compelling service of notice or execution of deed.

[Repealed.]

§11A-3-29. One deed for adjoining pieces of real estate within the same tax district.

[Repealed.]

§11A-3-30. Title acquired by individual purchaser; action to quiet title

[Repealed]

§11A-3-31. Effect of irregularity on title acquired by purchaser.

[Repealed]

§11A-3-32. Sheriff to keep proceeds in separate accounts; disposition.

(a) The sheriff shall keep in a separate fund the proceeds of all redemptions ~~and sales~~ paid to him or her under the provisions of this chapter, except for those proceeds for which a separate fund is directed by the provisions of ~~section 64~~ §11A-3-64 of this ~~article~~ code. Out of the total proceeds of each ~~sale or~~ redemption he or she shall in the order of priority stated below credit the following amounts for payment as provided in this section:

(1) To the general county fund, the part that represents costs paid out of the fund for publishing the sheriff's delinquent and sales

list and all other costs incurred by the sheriff pursuant to the provisions of this article;

~~(2) Surplus proceeds from the sale of tax liens on delinquent lands shall be held by the sheriff for the periods provided for in section ten of this article, and if no application is made within the time specified, the surplus shall be distributed by the sheriff in the manner provided by law for the distribution of property taxes collected by him or her; and~~

~~(3)~~ (2) The balance, if any, of the proceeds of the lands included in each suit shall be prorated among the various taxing units on the basis of the total amount of taxes due them in respect to the lands that were sold or redeemed.

(b) The amounts so determined shall be credited as follows for payment as provided in this subsection:

(1) To the ~~State~~ Auditor, the part that represents state taxes and interest; and

(2) To the fund kept by the sheriff for each local taxing unit, the part that represents taxes and interest payable to the unit.

(c) All amounts which under the provisions of this section were credited by the sheriff to the Auditor shall be paid to him or her semiannually, and those credited to the various local taxing units shall be transferred semiannually by the sheriff to the fund kept by him or her for each taxing unit.

(d) The ~~State~~ Auditor shall prescribe the form of the records to be kept by the sheriff for the purposes of this section, and the method to be used by him or her in making the necessary pro rata distributions.

§11A-3-39. Certificate of redemption issued by Auditor; recordation.

(a) Upon payment of the sum necessary to redeem, the Auditor shall execute a certificate of redemption in triplicate, which certificate shall specify the real estate redeemed, or the interest

therein, as the case may be, together with any changes in respect thereto which were made in the land book and in the record of delinquent lands, shall specify the year or years for which payment was made, and shall state that it is a receipt for the money paid and a release of the state's lien against the real estate redeemed. The original certificate shall be retained in the files in the Auditor's office, one copy shall be delivered to the person redeeming and the second copy shall be mailed by the Auditor to the clerk of the county commission of the county in which the real estate is situated, who, after making any necessary changes in his or her record of delinquent lands, shall note the fact of redemption on such record, and shall record the certificate in a separate volume provided for the purpose.

The fee for issuing the certificate of redemption shall be ~~\$10 or \$20 and~~ seven and one-half percent of the total taxes and interest and charges due, whichever is greater not to exceed \$120.

(b) All certificates of redemption issued by the Auditor in each year shall be numbered consecutively and shall be filed by the clerk of the county commission in numerical order. Reference to the year and number of the certificate shall be included in the notation of redemption required of the clerk of the county commission. No fee shall be charged by the clerk for any recordation, filing, or notation required by this section. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

§11A-3-42. Lands subject to sale by ~~deputy commissioner~~ Auditor.

All lands ~~for which no person present at the sheriff's sale, held pursuant to section five of this article, has bid the total amount of taxes, interest and charges due, and which were subsequently certified to the Auditor pursuant to section eight §11A-3-8 of this article code and which have not been redeemed, from the auditor within eighteen months after such certification,~~ together with all non-entered lands, all escheated lands, and all waste and unappropriated lands, shall be subject to sale by the ~~deputy~~

~~commissioner~~ Auditor ~~of delinquent and nonentered lands~~ as further provided in this article. References in this chapter to the sale or purchase of certified or non-entered lands by or from the ~~deputy commissioner~~ Auditor shall be construed as the sale or purchase of the tax lien or liens thereon.

§ 11A-3-44. Auditor to certify list of lands to be sold; lands so certified are subject to sale.

On or after ~~the first day of May~~ March 1 and on or before ~~the first day of October~~ August 1 of each year, the Auditor shall certify ~~to the deputy commissioner of each county~~ a list of all lands ~~in the county~~ subject to sale under this article. He or she shall note the fact of certification on the land record in his or her office. Upon completion of the list for certification, a charge of \$25 shall be added to the taxes, interest, and charges already due on each tract listed, to cover the costs incurred by the Auditor in the preparation of the list, and in the event of sale or redemption, the same shall be collected and paid into the operating fund provided for in this article.

Escheated lands and waste and unappropriated lands shall be listed separately. The list shall be arranged by districts and, except in the case of waste and unappropriated lands, alphabetically by the name of the owner. The list shall state as to each item listed the information required by §11A-3-35 of this code to be set forth in the land record in the Auditor's office, and shall specify as to each tract listed as delinquent or non-entered the amount of taxes and interest due or chargeable thereon on the date of certification, the publication and other charges due, with interest, and the total currently due. The specification of taxes due or chargeable shall as to delinquent land commence with those for nonpayment of which it was ~~sold~~ certified, and as to non-entered land with those properly chargeable to it for the first year of nonentry, subject to the provisions of the proviso set forth in ~~subsection (b), section thirty-eight of this article~~ §11A-3-38(b) of this code.

All items certified ~~to each deputy commissioner~~ by the Auditor shall be numbered consecutively. All subsequent entries, applications, or proceedings under this article in respect to any item

shall refer to its number and the year of certification. All Notwithstanding any provisions of this article to the contrary, all tracts, lots, or parcels certified to the Auditor as a unit may be treated by the Auditor as a single item for purposes of certification. Subject to the provisions of this section, the Auditor shall prescribe a form for the list and shall provide in such form adequate space to show the subsequent history and final disposition of each item certified.

The list shall be made in ~~triplicate~~ quadruplicate. The Auditor shall keep the original and send one copy to the clerk of the county commission, ~~and one to the deputy commissioner~~ sheriff, and one to the West Virginia Land Stewardship Corporation created pursuant to §31-21-1 et seq. of this code. The clerk of the county commission shall bind his ~~or her~~ copy in a permanent book to be labeled "Report of ~~State Commissioner~~ Auditor of Delinquent and Non-Entered Lands" and shall note the fact of the certification of each item on his ~~or her~~ record of delinquent lands. Such copies delivered to the clerk of the county commission and the sheriff shall become permanent records, and shall be preserved as such in the offices of the Auditor and the clerk of the county commission.

§11A-3-45. ~~Deputy commissioner~~ Auditor to hold annual auction.

(a) Each tract or lot certified ~~to the deputy commissioner~~ by the Auditor pursuant to the preceding section §11A-3-44 of this code shall be sold by ~~the deputy commissioner~~ by him or her at public auction at the courthouse of the county to the highest bidder ~~between the hours of nine in the morning and four in the afternoon during the courthouse's normal operating hours~~ on any business working day within ~~120~~ 90 days after the Auditor has certified the lands ~~to the deputy commissioner~~ as required by ~~the preceding section §11A-3-44 of this code.~~ The payment for any tract or lot purchased at a sale shall be made by check, U. S. currency, or money order payable to the ~~sheriff of the county~~ Auditor and delivered before the close of business on the day of sale. No part or interest in any tract or lot subject to such sale, or any part thereof of interest therein, that is less than the entirety of such unredeemed tract, lot, or interest, as the same is described and constituted as a

unit or entity in said list, shall be offered for sale or sold at such sale. If the sale shall not be completed on the first day of the sale, it shall be continued from day to day between the same hours until all the land shall have been offered for sale.

(b) A private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of Section 501(c)(3) of the federal Internal Revenue Code, as amended, which has as its principal purpose the construction of housing or other public facilities and which notifies the ~~deputy commissioner~~ Auditor of an intention to bid and subsequently submits a bid that is not more than five percent lower than the highest bid submitted by any person or organization which is not a private, nonprofit, charitable corporation as defined in this subsection, shall be sold the property offered for sale at public auction by the ~~deputy commissioner~~ Auditor pursuant to the provisions of this section at the public auction as opposed to the highest bidder.

The nonprofit corporation referred to in this subsection does not include a business organized for profit, a labor union, a partisan political organization, or an organization engaged in religious activities, and it does not include any other group which does not have as its principal purpose the construction of housing or public facilities.

§11A-3-46. Publication of notice of auction.

Once a week for three consecutive weeks prior to the auction required in ~~the preceding section~~ §11A-3-45 of this code, the ~~deputy commissioner~~ Auditor shall publish notice of the auction as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

The notice shall be in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land in the County of _____, have been certified by the Auditor of the State of West Virginia, to _____, ~~Deputy~~

~~Commissioner of Delinquent and Non entered Lands of said County,~~ for sale at public auction. The lands will be offered for sale by the undersigned ~~deputy commissioner~~ Auditor at public auction in (specify location) the courthouse of _____ County between the hours of _____ ~~nine~~ _____ in the morning and ~~four~~ _____ in the afternoon, on the _____ day of _____, 1920.

Each tract or lot as described below will be sold to the highest bidder at the auction. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the ~~sheriff of the county~~ Auditor and delivered before the close of business on the day of the sale. If any of said tracts or lots remain unsold following the auction, they will be subject to later sale ~~by the deputy commissioner~~ without additional advertising or public auction. The ~~deputy commissioner~~ Auditor's sale may include tracts or lots remaining unsold from a previous auction not required by law to be readvertised and described for this subsequent auction of those same tracts and lots. All sales are subject to the approval of the Auditor of the State of West Virginia.

(here insert description of advertised lands to be sold)

Any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon at any time prior to the sale by payment to the ~~deputy commissioner~~ Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption. Lands listed above as escheated or waste and unappropriated lands may not be redeemed.

Given under my hand this _____ day of _____, 1920.

~~Deputy Commissioner of Delinquent and Non entered Lands of~~ Auditor of the State of West Virginia _____
 County.

The description of lands required in the notice shall be in the same form as the list certifying said lands ~~to the deputy commissioner~~ for sale. If the ~~deputy commissioner~~ Auditor is required to auction lands certified to him or her in any previous

years, pursuant to ~~section 48 of this article~~ §11A-3-48 of this code, he or she shall include such lands in the auction without further advertisement, with reference to the year of certification and the item number of the tract or interest.

To cover the cost of preparing and publishing the notice, a charge of \$30 shall be added to the taxes, interest, and charges due on the delinquent and non-entered property.

§11A-3-48. Unsold lands subject to sale without auction or additional advertising.

If any of the lands which have been offered for sale at the public auction provided in §11A-3-45 of this code shall remain unsold following such auction; or were sold at a tax sale auction within the previous five years, which were not redeemed, and for which no deed was secured by the purchaser; or if the Auditor refuses to approve the sale pursuant to §11A-3-51 of this code, the ~~deputy commissioner~~ Auditor may sell the lands at any time subsequent to such auction, without any further public auction or additional advertising of the land, in the following priority: (1) To a person vested with an ownership interest in an adjacent tract or parcel of land: *Provided, That If more than one adjacent landowner desires to acquire the same tract or lot, then the Auditor shall sell such tract or lot to the highest bidder;* (2) to the municipality in which the tract or lot is located; (3) The county commission of the county in which the tract or lot is located; (4) to the West Virginia Land Stewardship Corporation as part of its Land Bank Program set forth in §31-21-11 *et seq.* of this code; or (5) to any party willing to purchase such property.

The price of such property shall be as agreed upon by the ~~deputy commissioner~~ Auditor and purchaser. ~~subject to approval by the Auditor as provided in §11A-3-51 of this code.~~

§ 11A-3-50. Receipt to purchaser for purchase price.

The ~~deputy commissioner~~ Auditor shall prepare an original and two copies of the receipt for the purchase money. He or she shall give the original receipt to the purchaser and shall file one copy

thereof with the clerk of the county commission and one copy thereof with the sheriff, each of whom shall note the fact of such sale on their respective records of delinquent lands. The heading of the receipt shall be:

Memorandum of real estate sold in the county of _____ on this ___ day of _____, 1920 __, by _____, the ~~deputy commissioner of delinquent and non-entered lands of said county~~ Auditor of the State of West Virginia.

Except for the heading, the Auditor shall prescribe the form of the receipt.

**§ 11A-3-52. ~~What purchaser must do before he or she can~~
Duties of purchaser to secure a deed.**

(a) Within 45 120 days following the approval of the sale by the Auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the ~~deputy commissioner~~ Auditor to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code;

(2) When the real property subject to the tax lien was classified as Class II property, provide the ~~deputy commissioner~~ Auditor with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the ~~deputy commissioner~~ Auditor a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of subsection (a) of this section have been satisfied, the ~~deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for~~

~~sale at public auction but which remain unsold after such auction, as provided in §11A-3-48 of this code~~ Auditor shall issue and notice to redeem as required by §11A-3-54 and §11A-3-55 of this code.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he or she shall, at the time of the request, file with the ~~deputy commissioner~~ Auditor a written assignment to him or her of the purchaser's rights, executed, acknowledged, and certified in the manner required to make a valid deed.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional ~~30~~ 60 days from the expiration of the time period set forth in subsection (a) of this section to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the ~~State~~ Auditor a request in writing for the extension ~~before~~ within 30 days following the expiration of the time period set forth in subsection (a) of this section and makes payment by ~~cash U. S. currency,~~ cashier's check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the ~~State~~ Auditor.

(f) The ~~State~~ Auditor shall each month draw his or her warrant upon the treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

§11A-3-53. Refund to purchaser of payment made at ~~deputy commissioner's~~ Auditor's sale where property is nonexistent.

If, within ~~forty five~~ 180 days following the approval of the sale by the Auditor, the purchaser discovers that the property purchased at the sale is nonexistent, the purchaser shall submit the abstract or certificate of an attorney-at-law that the property is nonexistent.

Upon receipt of the abstract or certificate, the ~~deputy commissioner shall~~ Auditor cause the moneys so paid on the day of the sale to be refunded. Upon refund of the amount bid at a ~~deputy commissioner's~~ an Auditor's sale, ~~the deputy commissioner~~ he or she shall inform the assessor that the property does not exist for the purpose of having the assessor correct the error. ~~For failure to meet this requirement, the purchaser shall lose all benefits of his purchase.~~

§11A-3-54. Notice to redeem.

Whenever the provisions of ~~section 52~~ §11A-3-52 of this ~~article~~ code have been complied with, the ~~deputy commissioner~~ Auditor shall thereupon prepare a notice in form or effect as follows:

To _____

You will take notice that _____, the purchaser (or _____, the assignee, heir, or devisee of _____, the purchaser) of the following real estate, _____, (here describe the real estate sold) located in _____, (here name the city, town, or village in which the real estate is situated or, if not within a city, town, or village, give the district and a general description) which was _____ (here put whether the property was returned delinquent or non-entered) in the name of _____, and was sold by the ~~deputy commissioner of delinquent and non-entered lands of _____ County~~ Auditor at the sale for delinquent taxes (or nonentry) on the ___ day of _____, 19 20 ___, has requested that you be notified that a deed for such real estate ~~will~~ shall be made ~~to him~~ on or after the ___ day of _____, 19 20 ___, as provided by law, unless before that day you redeem such real estate. The amount you ~~will~~ shall have to pay to redeem on the ___ day of _____, 19 20 ___ ~~will~~ shall be as follows:

Amount equal to the taxes, interest, and charges due on the date of sale, with interest to _____ \$ _____

Amount of taxes paid on the property, since the sale, with interest to _____ \$ _____

Amount paid for title examination and preparation of list of those to be served, and for preparation and service of the notice with interest to _____ \$ _____

Amount paid for other statutory costs (describe) _____ \$ _____

Total \$ _____

You may redeem at any time before _____ by paying the above total less any unearned interest.

If the above real estate is your primary residence, you may petition the Auditor to redeem the real estate in not more than three incremental payments that equal the total amount required to redeem the real estate prior to the issuance of the deed described above.

Given under my hand this ___ day of _____, 19 20 ____.

~~Deputy Commissioner of Delinquent~~

~~And Non-entered Lands Auditor~~

_____ County,

State of West Virginia

~~The deputy commissioner for his service in preparing the notice~~ For preparing this notice, the Auditor shall receive a fee of \$10 for the original and two dollars for each copy required. Any costs which must be expended in addition thereto for publication, or service of such notice in the manner provided for serving process commencing a civil action, or for service of process by certified mail, shall be charged by the ~~deputy commissioner~~ Auditor. All costs provided by this section shall be included as redemption costs and included in the notice described herein.

§11A-3-55. Service of notice.

(a) As soon as the ~~deputy commissioner~~ Auditor has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the ~~deputy commissioner's~~ Auditor's sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the ~~deputy commissioner~~ Auditor issues the required notices by certified mail, the ~~deputy commissioner~~ Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to "Occupant", to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased ~~by an individual~~ may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the ~~deputy commissioner~~ Auditor the following amounts:

(1) An amount equal to the taxes, interest, and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) All other taxes thereon, which have since been paid by the purchaser, his or her heirs-or, with interest at the rate of one percent per month from the date of payment;

(3) Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of

payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) All additional statutory costs paid by the purchaser; and

(5) The ~~deputy commissioner's~~ Auditor's fee and commission as provided by §11A-3-66 of this code. Where the ~~deputy commissioner~~ Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, or of any licensed attorney's title examination incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the ~~deputy commissioner~~ Auditor the sum of \$500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and § 11A-3-64 of this code. Upon payment to the ~~deputy commissioner~~ Auditor of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff and the Auditor, and the deputy commissioner in the exercise of their duties pursuant to this article, the ~~deputy commissioner~~ Auditor shall prepare an original and five copies of the receipt for ~~the~~ payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The ~~deputy commissioner~~ Auditor shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, ~~the Auditor~~, and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person ~~by reason~~ for reasons of financial hardship of the fact that no provision is made for partial may petition the Auditor to redeems his or her primary residence in installments. The petition shall certify to the Auditor that the real estate is the

primary residence of the redeeming party. The Auditor may approve a financial hardship plan and it shall be signed by him or her and the party making the request. A copy of the document evidencing such acceptance shall be filed with the clerk of the county commission in which the property is located. ~~redemption of the tax lien on real estate purchased by an individual.~~

(c) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased at the public auction or at a subsequent sale, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within 30 days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

§11A-3-66. Compensation of ~~deputy commissioner~~ Auditor.

As compensation for his or her services, the ~~deputy commissioner~~ Auditor shall be entitled to a fee of ~~\$10~~ \$20 for each item certified ~~to by him or her by the Auditor~~ pursuant to §11A-3-44 of this code. In addition thereto he or she shall receive a commission of ~~fifteen~~ seven and one half percent and interest on each sale or redemption, ~~whichever is greater~~ not to exceed \$120.00. A commission received on a sale shall be based on the sale price and a commission received on a redemption shall be based on the total taxes and interest due. Such compensation shall be paid as provided in this article. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

§11A-3-69. Effect of repeal.

~~(a) The repeal of the provisions of §11A-4-39, §11A-4-39a, §11A-4-39b, and §11A-4-41 of this code which was affected by the recodification of this article and article four of this chapter as the result of the enactment of chapter 87, _____ Acts of the Legislature, Regular Session, 1984, shall not be construed to affect any right established or accrued pursuant to those provisions.~~

The repeal of the provisions of §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, and §11A-3-29 of this code, enacted during the 2022 regular session of the Legislature, shall not affect any tax liens sold prior to January 1, 2022.

ARTICLE 4. REMEDIES RELATING TO TAX SALES.**§ 11A-4-3. Right to set aside deed improperly obtained.**

~~(a) Whenever the clerk of the county commission has delivered a deed to the purchaser after the time specified in section twenty-seven of article three of this chapter, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of section nineteen of said article three, or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. No deed shall be set aside under the provisions of this section, except in the case of redemption, until payment has been made or tendered to the purchaser, or his heirs or assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of twelve percent per annum~~

~~(b) Whenever the deputy commissioner Auditor has delivered a deed to the purchaser after the time specified in section fifty-nine~~

~~of article three of this chapter~~ §11A-3-59 of this code, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of ~~section 52 of said article three~~ §11A-3-52 of this code, or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. No deed shall be set aside under the provisions of this section, except in the case of redemption, until payment has been made or tendered to the purchaser, ~~or his heirs or assigns, he or she, his or her heirs and assigns,~~ he or she, his or her heirs and assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

§ 11A-4-4. Right to set aside deed when one entitled to notice not notified.

(a) If any person entitled to be notified under the provisions of ~~section twenty two or fifty five, article three of this chapter~~ §11A-3-55 of this code is not served with the notice as therein required, and does not have actual knowledge that such notice has been given to others in time to protect his or her interests by redeeming the property, ~~he, his heirs and assigns, he or she, his or her heirs and assigns~~ may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. ~~No deed shall be set aside under the provisions of this section until payment has been made or tendered to the purchaser, or his heirs or assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.~~

(b) Any person instituting a civil action pursuant to this section seeking to set aside a tax deed shall, as a condition precedent to the court allowing the action to proceed, tender to the clerk of the court in which the suit is pending the funds necessary to redeem the real estate. The court shall enter an order directing the clerk to accept

the funds of the applicant, and deposit those funds into an account in the control of the clerk pending the conclusion of the proceeding.

(c) In any action brought by a tax sale purchaser or his or her grantee seeking to quiet the title pursuant to an Auditor's sale, the previous owner and any person entitled to notice or right to redeem shall have the right to assert as a defense to the requested remedy the existence of both a failure of notice of the right to redeem and a failure of the applicant for the deed to have exercised reasonably diligent efforts to provide notice of his or her intention to acquire title to the real estate. It shall be a condition precedent to raising such a defense that he or she has the funds necessary to redeem the real estate should he or she prevail. Upon application by the person instituting such suit, the court shall enter an order directing the defendant to tender funds in the sufficient amount to the clerk for deposit into an account in the clerk's control pending conclusion of the proceeding. Failure to tender the necessary funds within 30 days following the entry of the order requiring the deposit shall entitle the purchaser to a judgment in his or her favor.

(d) An answer filed by a purchaser or his or her grantee shall include the amount required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

~~(b)~~ (e) No title acquired pursuant to this article shall be set aside in the absence of a showing by clear and convincing evidence that the person who originally acquired such title failed to exercise reasonably diligent efforts to provide notice of his intention to acquire such title to the complaining party or his predecessors in title.

~~(e)~~ (f) Upon a preliminary finding by the court that the deed will be set aside pursuant to this section, such amounts on deposit with the clerk pursuant to this section shall be paid by the clerk to the sheriff within one month of the entry thereof and shall direct the sheriff to pay to the purchaser amounts pursuant to §11A-3-58 of this code. ~~Upon the failure to pay the same within said period of time, the court shall upon the request of the purchaser, enter a finding by the court that the deed will not be set aside and with the~~

entry of a judgment dismissing the action with prejudice, the clerk shall return to the plaintiff or other appropriated person whose funds previously tendered, less any accrued costs assessed against such person such funds by the court.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 18. SLUM CLEARANCE.

§16-18-3. Definitions.

The following terms, wherever used or referred to in this article, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(a) "Area of operation" means in the case of a municipality, the area within such municipality and the area within five miles of the territorial boundaries thereof, except that the area of operation of a municipality under this article shall not include any area which lies within the territorial boundaries of another municipality unless a resolution shall have been adopted by the governing body of such other municipality declaring a need therefor; and in the case of a county, the area within the county, except that the area of operation in such case shall not include any area which lies within the territorial boundaries of a municipality unless a resolution shall have been adopted by the governing body of such municipality declaring a need therefor; and in the case of a regional authority, shall mean the area within the communities for which such regional authority is created: *Provided*, That a regional authority shall not undertake a redevelopment project within the territorial boundaries of any municipality unless a resolution shall have been adopted by the governing body of such municipality declaring that there is a need for the regional authority to undertake such development project within such municipality. No authority shall operate in any area of operation in which another authority already established is undertaking or carrying out a redevelopment project without the consent, by resolution, of such other authority.

(b) "Authority", "slum clearance and redevelopment authority", or "urban renewal authority" means a public body,

corporate and politic, created by or pursuant to section four of this article or any other public body exercising the powers, rights, and duties of such an authority as hereinafter provided.

(e) "Blighted area" means an area, other than a slum area, which by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site improvement, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(d) "Blighted property" means a tract or parcel of land that, by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, tax delinquency, deterioration of site or other improvements, or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare.

(e) "Bonds" means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this section.

(f) "Community" means any municipality or county in the state.

(g) "Clerk" means the clerk or other official of the municipality or county who is the custodian of the official records of such municipality or county.

(h) "Federal government" is the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(i) "Governing body" means the council or other legislative body charged with governing the municipality or the county court or other legislative body charged with governing the county.

(j) "Mayor" means the officer having the duties customarily imposed upon the executive head of a municipality.

(k) "Municipality" means any incorporated city, town, or village in the state.

(l) "Obligee" means any bondholder, agents, or trustees for any bondholders, or lessor demising to the authority property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(m) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and shall include any trustee, receiver, assignee, or other similar representative thereof.

(n) "Public body" means the state or any municipality, county, township, board, commission, authority, district, or any other subdivision or public body of the state.

(o) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(p) "Redeveloper" means any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract.

(e) "Redevelopment contract" means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan.

(f) "Redevelopment plan" means a plan for the acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment project area.

(g) "Redevelopment project" means any work or undertaking:

(1) To acquire pursuant to the limitations contained in §54-1-2(11) of this code slum areas or blighted areas or portions thereof, including lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such slum or blighted areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight;

(2) To clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan;

(3) To sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use or to retain such land for public use, in accordance with a redevelopment plan; and

(4) Preparation of a redevelopment plan, the planning, survey and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project.

(h) "Slum area" means an area in which there is a predominance of buildings or improvements or which is predominantly residential in character and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any

combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals, or welfare.

(u) "Unblighted property" means a property that is not a blighted property.

§16-18-30. Acquisition of tax-delinquent property.

(a) Notwithstanding any other provision of this code to the contrary, if authorized by the municipality which created an urban renewal authority or otherwise by intergovernmental cooperation agreement, an urban renewal authority may acquire an interest in tax-delinquent property through the provisions of chapter 11A of this code. If any unredeemed tract or lot, or undivided interest in real estate offered for sale at public auction remain unsold following the auction, the Auditor shall provide a list of all said real estate within an urban renewal authority's jurisdiction to the urban renewal authority, and the urban renewal authority shall be given an opportunity to purchase the tax lien and pay the taxes, interest, and charges due for any unredeemed tract or lot, or undivided interest therein, as if the urban renewal authority purchased the tax lien at the tax sale.

(b) Notwithstanding any other provision of this code to the contrary, if authorized by the municipality which created an urban renewal authority or otherwise by intergovernmental cooperation agreement, the urban renewal authority has the right of first refusal to purchase any tax-delinquent property which is within municipal limits, if it meets one or more of the following criteria: (1) It has an assessed value of \$25,000 to \$100,000, or less; (2) there are municipal liens on the property that exceed the amount of back taxes owed in the current tax cycle; (3) the property has been on the municipality's vacant property registry for 24 consecutive months or longer; (4) the property was sold at a tax sale within the previous three years, was not redeemed, and no deed was secured by the previous lien purchaser; or (5) has been condemned: *Provided*, That the urban renewal authority satisfies the requirements of subdivision (3) of this subsection. A list of properties which meet the criteria of this subdivision shall regularly

be compiled by the sheriff of the county, and an urban renewal authority may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

(c) When an urban renewal authority exercises a right of first refusal in accordance with subdivision (2) of this subsection, the urban renewal authority shall, within 15 days of obtaining a tax deed, provide written notice to all owners of real property that are adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to express an interest in purchasing the tax-delinquent property from the urban renewal authority for an amount equal to the amount paid for the property plus expenses incurred by the urban renewal authority: *Provided*, That the urban renewal authority may refuse to sell the property to the adjacent property owner that expressed interest in the tax-delinquent property if that property owner or an entity owned by the property owner or its directors is delinquent on any state and local taxes or municipal fees, liens, or penalties on any of its property.

(d) Effective July 1, 2026, the provisions of subsections (b) and (c) of this section shall sunset and have no further force and effect.

(e) Prior to January 1, 2026, any urban renewal authority which exercises the authority granted by this subsection may submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this section.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-30. Reclamation of Abandoned and Dilapidated Properties Program.

(a) To assist county commissions, ~~or~~ municipalities, urban renewal authorities created pursuant to §16-18-1 *et seq.* of this

code, and land reuse agencies and municipal land banks created pursuant to §31-18E-1 et seq. of this code, in their efforts to remediate abandoned, blighted, and dilapidated structures or properties as provided by § 7-1-3ff and § 8-38-5 of in this code, the Department of Environmental Protection may develop a program called the Reclamation of Abandoned and Dilapidated Properties Program. Using the fund established in subsection (b) of this section, the Department of Environmental Protection may work with county commissions, ~~or~~ municipalities, urban renewal authorities, land reuse agencies, and municipal land banks ~~and~~ to implement redevelopment plans which will, at a minimum, establish prioritized inventories of structures eligible to participate in the program, offer reuse options for ~~high-priority~~ sites, and recommend actions county commissions or municipalities may take to remediate abandoned and dilapidated structures in their communities.

(b) There is created in the State Treasury a special revenue fund known as the Reclamation of Abandoned and Dilapidated Properties Program Fund. The fund shall be comprised of any money granted by charitable foundations, allocated by the Legislature, allocated from federal agencies, and earned from the investment of money held in the fund, and all other money designated for deposit to the fund from any source, public or private. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(c) The fund, to the extent that money is available, may be used solely to assist county commissions, ~~or~~ municipalities, urban renewal authorities, land reuse agencies, and municipal land banks ~~in remediating to remediate~~ abandoned and dilapidated structures ~~and properties in their communities~~ by demolishing, ~~or~~ deconstructing, or redeveloping them together with predevelopment expenses related thereto and other activities as authorized by a charitable grant or legislative appropriation. The fund may also be used to defray costs incurred by the Department of Environmental Protection in administering the provisions of this

section. However, no more than five percent of money transferred from the Solid Waste Facility Closure Cost Assistance Fund may be used for administrative purposes.

(d) The Department of Environmental Protection, in consultation with the State Fire Marshal, Insurance Commissioner, the Auditor, the Secretary of Revenue, and the Legislative Auditor, shall conduct a review of the needs of county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks. On or before December 31, 2023, the Department of Environmental Protection shall submit to the Joint Committee on Government and Finance a comprehensive report of that review, along with recommendations that are substantiated by the findings of the review that may be taken to meet the needs of the state in demolishing and redeveloping abandoned and dilapidated structures and properties.

(e) *Statewide contracts.* — The Department of Environmental Protection may cooperate with the Purchasing Division of the Department of Administration to establish one or more statewide contracts for services to be utilized by county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks to implement the purposes of this section.

~~(d)~~ (f) The Department of Environmental Protection may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to include, but not be limited to, governing the disbursement of money from the fund, establishing the Reclamation of Abandoned and Dilapidated Properties Program, directing the distribution of money from the fund, entering contracts statewide contracts, and establishing criteria for eligibility to receive money from the fund.

~~(e)~~ (g) Nothing in this section shall be construed to limit, restrain, or otherwise discourage this state and its political subdivisions from disposing of abandoned and dilapidated structures in any other manner provided by the laws of this state.

CHAPTER 31. CORPORATIONS.**ARTICLE 18E. WEST VIRGINIA LAND REUSE AGENCY AUTHORIZATION ACT.****§ 31-18E-9. Acquisition of property.**

(a) *Title to be held in its name.* — A land reuse agency or municipal land bank shall hold in its own name all real property it acquires.

(b) *Tax exemption.* — (1) Except as set forth in subdivision (2) of this subsection, the real property of a land reuse agency or municipal land bank and its income and operations are exempt from property tax.

(2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency or municipal land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

(c) *Methods of acquisition.* — A land reuse agency or municipal land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land reuse agency considers proper: *Provided*, That a land reuse agency or municipal land bank may not acquire any interest in oil, gas, or minerals which have been severed from the realty.

(d) *Acquisitions from municipalities or counties.* — (1) A land reuse agency or municipal land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts, and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank and the municipality or county.

(2) A municipality or county may transfer to a land reuse agency or municipal land bank real property and interests in real property of the municipality or county on terms and conditions and

according to procedures determined by the municipality or county as long as the real property is located within the jurisdiction of the land reuse agency or municipal land bank.

(3) An urban renewal authority, as defined in §16-18-4 of this code, located within a land reuse jurisdiction established under this article may, with the consent of the local governing body and without a redevelopment contract, convey property to the land reuse agency. A conveyance under this subdivision shall be with fee simple title, free of all liens and encumbrances.

(e) *Maintenance.* — A land reuse agency or municipal land bank shall maintain all of its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located.

(f) *Prohibition.* — (1) Subject to the provisions of subdivision (2) of this subsection, a land reuse agency or municipal land bank may not own or hold real property located outside the jurisdictional boundaries of the entities which created the land reuse agency under §31-18E-4(c) of this code.

(2) A land reuse agency or municipal land bank may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality or county to manage and maintain real property located within the jurisdiction of the municipality or county.

(g) *Acquisition of tax-delinquent properties.* — (1) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, a land reuse agency or municipal land bank may acquire an interest in tax-delinquent property through the provisions of chapter 11A of this code. ~~Notwithstanding the provisions of §11A-3-8 of this code, if no person present at the tax sale bids the amount of the taxes, interest, and charges due on~~ If any unredeemed tract or lot or undivided interest in real estate offered for sale the sheriff shall at public auction remain unsold following the auction, prior to certifying the real estate to the Auditor for disposition pursuant to §11A-3-44 of this code, the

Auditor shall provide a list of all of said real estate within a land reuse or municipal land bank jurisdiction to the land reuse agency or municipal land bank and the land reuse agency or municipal land bank shall be given an opportunity to purchase the tax lien and pay the taxes, interest, and charges due for any unredeemed tract or lot or undivided interest therein as if the land reuse agency or municipal land bank ~~were an individual who~~ purchased the tax lien at the tax sale.

(2) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, the land reuse agency or municipal land bank shall have the right of first refusal to purchase any tax-delinquent property which is within municipal limits, and meets one or more of the following criteria: (A) It has an assessed value of \$50,000 or less; (B) there are municipal liens on the property that exceed the amount of back taxes owed in the current tax cycle; (C) the property has been on the municipality's vacant property registry for 24 consecutive months or longer; (D) the property was sold at a tax sale within the previous three years, was not redeemed, and no deed was secured by the previous lien purchaser; or (E) has been condemned: *Provided*, That the land reuse agency or municipal land bank satisfies the requirements of subdivision (3) of this subsection. A list of properties which meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and a land reuse agency or municipal land bank may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

(3) When a land reuse agency or municipal land bank exercises a right of first refusal in accordance with subdivision (2) of this section, the land reuse agency or municipal land bank shall, within 15 days of obtaining a tax deed, provide written notice to all owners of real property that is adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to express an interest in purchasing the tax-delinquent property from the land reuse agency

or municipal land bank for an amount equal to the amount paid for the property plus expenses incurred by the land reuse agency or municipal land bank: *Provided*, That the land reuse agency or municipal land bank may refuse to sell the property to the adjacent property owner that expressed interest in the tax-delinquent property if that property owner or an entity owned by the property owner or its directors is delinquent on any state and local taxes or municipal fees on any of their property.

(4) Effective July 1, 2025, the provisions of subdivisions (2) and (3) of this subsection shall sunset and have no further force and effect.

(5) Prior to January 1, 2025, any land reuse agency or municipal land bank which exercises the authority granted by this subsection shall submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this subsection.

ARTICLE 21. WEST VIRGINIA LAND STEWARDSHIP CORPORATION.

§31-21-11. Land bank program.

(a) This article hereby authorizes the establishment of a voluntary state land bank program. Under this program, the corporation is authorized to acquire properties, hold title and prepare them for future use. Prior to acquiring any properties, the corporation shall conduct ~~all appropriate inquiries~~ site appropriate assessments to determine the environmental conditions or issues associated with a particular property. The corporation shall not acquire title to any property unless all pending liens have been satisfied and released. Liabilities, including, but not limited to, environmental liabilities, shall not pass to the corporation by its acquisition of title. Participation in the land bank program under this article shall not relieve an entity of any of its liabilities.

(b) The objective of the land bank program is to assist state and local government efforts for economic development by accepting

formerly used or developable properties and preparing the properties so they can be conveyed to other parties to locate or expand businesses and create or retain jobs in this state.

(c) The corporation may acquire by gift, devise, transfer, exchange, foreclosure, purchase or otherwise on terms and conditions and in a manner the corporation considers proper, real or personal property or rights or interests in real or personal property. The corporation may not accept by any conveyance or other action any liability for prior pollution or contamination liabilities that occurred on the property prior to its conveyance to the corporation.

(d) Real property acquired by the corporation may be by purchase and sale agreement, lease purchase agreement, installment sales contract, land contract or otherwise as may be negotiated or structured. The corporation may acquire real property or rights or interests in real property for any purpose the corporation considers necessary to carry out the purposes of this article including, but not limited to, one or more of the following purposes:

(1) Use or development of property the corporation has otherwise acquired;

(2) To facilitate the assembly of property for sale or lease to any other public or private person, including, but not limited to, a nonprofit or for-profit corporation;

(3) To conduct environmental remediation and monitoring activities.

(e) The corporation may also acquire by purchase, on terms and conditions and in a manner the corporation considers proper, property or rights or interests in property.

(f) The corporation may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state, or any other public or private person.

(g) All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of the corporation, including agreements to acquire or dispose of real property, shall be approved by the board of directors and executed in the name of the corporation or any single purpose entity created by the board for the transaction.

(h) All property held by the corporation or a single purpose entity created by the board for a transaction shall be inventoried and classified by the corporation according to title status and suitability for use.

(i) A document including, but not limited to, a deed evidencing the transfer under this article of one or more parcels of property to the corporation by this state or a political subdivision of this state may be recorded within the office of the county clerk of the county in which the property is located without the payment of a fee.

(j) The corporation shall notify the county commission and county assessor in the affected county or counties upon receipt of an application for participation in the land bank program.

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

Engrossed Committee Substitute for Senate Bill 552 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 552 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 552) passed.

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

Eng. Com. Sub. for Senate Bill 552—A Bill to repeal §11A-2-18 of the Code of West Virginia, 1931, as amended; to repeal §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of said code; to amend and reenact §11A-1-8 of said code; to amend and reenact §11A-2-14 of said code; to amend and reenact §11A-3-1, §11A-3-2, §11A-3-4, §11A-3-8, §11A-3-9, §11A-3-10, §11A-3-11, §11A-3-12, §11A-3-13, §11A-3-32, §11A-3-39 §11A-3-42, §11A-3-44, §11A-3-45, §11A-3-46, §11A-3-48, §11A-3-50, §11A-3-52, §11A-3-53, §11A-3-54, §11A-3-55, §11A-3-56, §11A-3-66, and §11A-3-69 of said code; to amend and reenact §11A-4-3 and §11A-4-4 of said code; to amend and reenact §16-18-3 of said code; to amend said code by adding thereto a new section, designated §16-18-30; to amend and reenact §22-15A-30 of said code; to amend and reenact §31-18E-9 of said code; and to amend and reenact §31-21-11 of said code, all relating to the process for the collection of delinquent real estate taxes and sales of tax liens and property; modifying the method by which notice is provided regarding the payment of property taxes; requiring a sheriff to accept credit cards as a form of payment for property taxes; allowing a sheriff to offer discounts on tax liability to taxpayers that pay with a credit card; modifying the deadline by which a sheriff must present delinquent lists to its county commission; modifying the deadline that a county commission certifies a delinquent list to the auditor; providing that a sheriff provide a redemption receipt if property is redeemed prior to certification to the auditor; directing a portion of the redemption fee to the Courthouse Facilities Improvement Fund; modifying the

policy related to the sale of tax liens; modifying the process by which a sheriff provides its second notice of delinquent real estate; modifying the timing and payment of redemption for delinquent properties prior to certification to the auditor; modifying dates for auditor to certify list of lands to be sold; providing any property not redeemed to the sheriff is to be certified to the auditor; providing that the sheriff prepare a list of all the tax liens on delinquent real estate redeemed prior to certification or certified to the auditor; providing that the sheriff account for the proceeds from redemptions prior to certification; providing a sheriff may modify its redemption and certification list within 30 days after the publication of such list; providing for the publication of such list; requiring sheriffs keep separate accounts for redemption moneys; identifying lands subject to sale by the deputy commissioner; relating to the obligation that the auditor certify and deliver a list of lands subject to sale by the deputy commissioner; addressing annual auctions held by the deputy commissioner and the publication of notice of public auctions held by the deputy commissioner; modifying timing of annual auction; relating the requirements that a purchaser must satisfy before he or she can secure a deed; modifying timing of purchaser obligation to secure deed; modifying refund to purchaser for property determined to be nonexistent; relating to the notice to redeem provided to a person entitled to redeem delinquent property; modifying fees for redemption; directing portion of fees for specific purpose; providing for certain delinquent taxpayers to redeem in installment payments; modifying the right to set aside a tax deed improperly obtained or a tax deed obtained without sufficient notice; clarifying procedure for right to set aside deed; modifying definition of blighted property; modifying the Reclamation of Abandoned and Dilapidated Properties Program; relating to the right of certain entities to purchase delinquent properties; modifying compensation due deputy commissioner; and modifying certain obligations of the West Virginia Land Stewardship Corporation land bank program; allowing authorized urban renewal authority to acquire interest in tax-delinquent property; requiring Auditor to provide list of certain unsold real estate to urban renewal authority; authorizing urban renewal authority to purchase tax lien and pay taxes, interest, and charges due; providing authorized urban

renewal authority with right of first refusal with respect to certain tax-delinquent property meeting certain criteria; requiring urban renewal authority to satisfy certain requirements; requiring sheriff to compile list of properties; authorizing urban renewal authority to purchase qualifying tax-delinquent property at certain amount before property place for public auction; requiring written notice to adjacent property owners by urban renewal authority; providing for period for adjacent property owners to express interest in purchasing property; clarifying that urban renewal authority may refuse to sell to certain delinquent parties; providing sunset for certain provisions relating to acquisition of tax-delinquent property; and requiring urban renewal authority which purchases tax-delinquent property to submit report.

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

At the request of Senator Romano, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 574, Relating to WV PEIA.

Having been read a third time on February 25, 2022, and now coming up in regular order, was reported by the Clerk.

The question being "Shall Engrossed Committee Substitute for Senate Bill 574 pass?"

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 574 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 574) passed.

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

Eng. Com. Sub. for Senate Bill 574—A Bill to amend and reenact §5-16-20 and §5-16-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto by adding a new section, designated §5-16-30, all relating to the West Virginia Public Employees Insurance Act; requiring the Public Employees Insurance Agency finance board to supplement reimbursements with reserve funds; reimbursement of hospital inpatient rates by the plan; reimbursement of emergency medical service providers and agencies rates by the plan; and naming of funds within the Public Employees Insurance Agency.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 574) takes effect July 1, 2023.

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 606, Relating to WV Medical Practice 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 606) 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 632, Making Office of Emergency Medical Services independent office within Executive Branch.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

On pages 11 and 12, section 5, lines 18 through 44, by striking out all of subsection (d) and inserting a new subsection (d), to read as follows:

(d) The council shall be composed of 18 members appointed by the Governor by and with the advice and consent of the Senate. The Mountain State Emergency Medical Services Association shall submit to the Governor a list of six names of representatives from its association and a list of three names shall be submitted to the Governor of representatives of their respective organizations by the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, West Virginia Professional Fire Fighters Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the ~~State~~ Department of Education. The Governor shall appoint, from the respective lists submitted, two persons who represent the Mountain State Emergency Medical Services Association, one of whom shall be a paramedic and one of whom shall be an emergency medical technician-basic; and one person from the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, West Virginia Professional Fire Fighters Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the ~~State~~ Department of Education. In addition, the Governor shall appoint the following:

(1) One person to represent emergency medical services providers operating within the state;

(2) One person to represent small emergency medical services providers operating within this state;

(3) One person to represent emergency medical services training officers or representatives;

(4) Two people to represent emergency medical services supervisors or administrators; and

(5) ~~Three~~ Two people to represent the general public who serve as voting members.

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

Engrossed Committee Substitute for Senate Bill 632 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 632 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 632) passed.

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

Eng. Com. Sub. for Senate Bill 632—A Bill to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-1, §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a, §16-4C-6b, §16-4C-8, §16-4C-8a, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-14, §16-4C-15, §16-4C-16, §16-4C-17, §16-4C-18, §16-4C-20, §16-4C-21, §16-4C-23, and §16-4C-24 of said code; and to amend said code by adding thereto a new section, designated §16-4C-25, all

relating to making Office of Emergency Medical Services, including all affiliated councils, boards, and entities, an independent office within Executive Branch of state government; setting effective date of July 1, 2022; providing that Governor shall appoint Director of Office of Emergency Medical Services at salary established by Governor; modifying the composition of the Emergency Medical Services Advisory Council; maintaining all authorities, powers, funds, and duties, and affiliated boards, councils, or commissions of Office of Emergency Medical Services; ensuring legislative rules remain in effect; directing Secretary of the Department of Health and Human Resources and Commissioner of Bureau for Public Health to work with Director of the Office of Emergency Medical Services to ensure smooth transition; requiring Office of Emergency Medical Services to utilize to fullest extent practicable existing resources of the Department of Health and Human Resources for functions necessary for operation of office; and making technical corrections to recognize the transfer elsewhere in code.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 632) takes effect July 1, 2022.

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 645, Regulating private schools for students with disabilities.

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

Pending discussion and a point of inquiry to the President, with resultant response thereto,

The question being "Shall Engrossed Committee Substitute for Senate Bill 645 pass?"

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Baldwin—1.

Absent: Stover—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. 645) 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 648, Relating to Cable Television Systems Act.

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 referred to the Committee on Rules.

Eng. Com. Sub. for Senate Bill 649, Requiring communication providers providing service or obtaining WV area codes to register with PSC.

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 649 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 649) 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 653, Relating to public higher education governance.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for Committee Substitute for Senate Bill 468, already placed in that position.

Eng. Com. Sub. for Senate Bill 655, Authorizing tactical medical professional to carry firearm with specific training requirements.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 655) 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 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements.

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: Boley, Brown, Caputo, Clements, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—22.

The nays were: Azinger, Baldwin, Beach, Geffert, Grady, Karnes, Martin, Maynard, Roberts, Rucker, and Woodrum—11.

Absent: Stover—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. 659) passed with its title.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:31 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:08 p.m. and, without objection, 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 2733—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

Referred to the Committee on Transportation and Infrastructure; 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 2838—A Bill to amend and reenact §6-9-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-6-26, and §11-6-27 of said code; and to amend and reenact §11A-3-36 of said code, all relating to state auditor's special revenue funds; authorizing the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds; creating the state auditor's public integrity and fraud fund for use of said funds; providing for operating funds in the public utilities and land sections to expire funds at the end of the fiscal year in a method consistent with other divisions of the state auditor's office; and providing for the investment of balances in the public utilities tax loss restoration fund.

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 4012—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4b, relating to prohibiting the showing of proof of a COVID-19 vaccination as a condition for entering upon the premises of any state or local governmental office, entity, department or agency, or as a condition for entering upon the premises of a hospital or state institution of higher education, unless such proof is required by federal law or regulation; and providing for a person harmed to seek injunctive relief, and, upon prevailing, may be awarded reasonable attorney's fees and court costs.

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 4064—A Bill to amend and reenact § 17A-10-3a of the Code of West Virginia, 1931, as amended, relating to the registration of antique vehicles.

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 4071—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-8B-1, §18-8B-2, §18-8B-3, §18-8B-4, all relating to creating the Public School Health Rights Act; providing

definitions; providing that a public school may not mandate masks for students or employees or mandate COVID-19 tests and quarantine under certain circumstances; providing that parents have the right to determine whether their children wear masks at school and school activities; providing that elected/public official cannot override the provisions of the Act; providing that nothing in the article may prevent any individual from wearing a face covering; and providing injunctive relief.

Referred to the Committee on Education; 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 4285—A Bill to amend and reenact §30-38-10, §30-38-11, and §30-38-17 of the Code of West Virginia, 1931, as amended, all relating to real estate appraiser licensing board requirements; prohibiting persons serving as expert witnesses from participating in any decision regarding disciplinary action; requiring the board provide applicants a written statement when the applicant's request for a license is denied; requiring the board send a written statement in 15 calendar days of its decision to deny an applicant's license or renewal request; setting forth content and mailing requirements for the board's written statement; requiring the board offer guidance on certain issues relating to nonconformity of Uniform Standards of Professional Appraisal Practice when submitted to the board; providing for 60 days for an applicant to cure any nonconformity to the standards; and other technical modifications.

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 4317—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

section, designated 33-57-2, relating to health insurance; prohibiting certain actions and defining terms.

Referred to the Committee on Banking and Insurance; 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 4377—A Bill to amend and reenact §27-5-1, §27-5-2, §27-5-3, §27-5-4, and §27-5-10 of the Code of West Virginia, 1931, as amended, all relating to involuntary hospitalization; modifying the time for the completion of proceedings; requiring applicants to disclose contact information of persons to receive notice of involuntary commitment proceedings; transportation of individuals who are ordered for involuntary hospitalization to a diversion facility; updating outdated language in the code; authorizing the West Virginia Department of Health and Human Resources to propose legislative rules to implement the provisions of these articles; authorizing the Supreme Court of Appeals and the West Virginia Department of Health and Human Resources to conduct retrospective reviews of involuntary commitment applications and orders; and making technical amendments.

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 4393—A Bill to amend and reenact §11-27-10a of the Code of West Virginia, 1931, as amended, relating to a tax on managed care organizations.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4441—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5k; and to amend said code by adding thereto a new section designated §20-2-42aa, relating to air rifles and classifications; setting forth criteria for when an air rifle may be used to hunt game in this state; setting caliber limits for air rifles when hunting certain types of game; creating a Class M air rifle stamp; creating a Class MM air rifle stamp; providing for when the stamp is applicable; and providing for when the stamp is required.

Referred to the Committee on Agriculture and Rural Development; 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, 2022, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4450—A Bill to repeal §3-2-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-3-1 of said code; and to amend and reenact §17B-2-8 of said code, all relating to removing the \$0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles, which fees are no longer necessary for affording voter registration costs.

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 4466—A Bill to amend and reenact §18-9D-15 of the Code of West Virginia, 1931, as amended, relating to seeking contribution of School Building Authority funds to support a local capital improvement bond finance plan; providing for application to the School Building Authority; requiring initial approval prior to conducting bond levy

election; requiring conditional language in materials referencing School Building Authority participation; establishing time limit for project completion; requiring project funded by the authority be in accordance with a comprehensive educational facility plan which must be approved by the state board and the authority; and deleting obsolete provisions.

Referred to the Committee on Education; 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 4499—A Bill to amend and reenact §5A-3-1, §5A-3-3, §5A-3-4, §5A-3-10, §5A-3-10a, §5A-3-11, §5A-3-12, §5A-3-17, §5A-3-18, §5A-3-29, §5A-3-35, and §5A-3-45 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6D-1-2 of said code, all relating generally to making the procurement process more efficient by modifying and updating outdated processes and requirements and encouraging earlier communication with and assistance from experts within the purchasing division regarding manner and process of procurement of commodities and services by the various spending units of the state; to eliminate outdated audit references of exempted agencies; to allow the director to exempt certain transactions from the requirements of chapter 5A, article 3; to clarify that grant recipients need not pay registration fees as a vendor; to authorize other procurement methods in lieu of formal competitive bidding when determined to be in the best interest of the state; to increase delegated procurement limits in the director's discretion; to make procurement from nonprofit workshops optional; to clarify timing required on rebidding; to change the requirement for an affidavit verifying that no debt is owed to an affirmation; to provide the Purchasing Division Director with discretion in increasing the \$2,500 no bid limit; to eliminate outdated information reporting requirements for vendor registration; to clarify procurement penalties and inventory submission language; to remove surplus fees for inter-agency asset transfers; to require inter-agency asset transfers be recorded in accordance with governmental accounting

standards; to shift the collection of the interested party disclosure information from contract award to before work begins in an effort to make the procurement process.

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 4502—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2L-1, §5B-2L-2, §5B-2L-3, §5B-2L-4, §5B-2L-5, §5B-2L-6, §5B-2L-7, §5B-2L-8, §5B-2L-9, §5B-2L-10, §5B-2L-11, §5B-2L-12, §5B-2L-13, §5B-2L-14, §5B-2L-15, §5B-2L-16, and §5B-2L-17, all relating to establishing the BUILD WV Act; providing legislative findings and purpose; authorizing rule-making authority; providing for the application of the West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing effective and expiration dates; exempting the construction contractors of certified BUILD WV projects from the consumers sales and service tax and use tax; authorizing municipalities to provide exemptions to business and occupation taxes; establishing a property value adjustment tax credit; providing for the determination of amount and application of the property value adjustment tax credit; providing that the property value adjustment tax credit entitlement is retained by eligible taxpayers that have developed project property; providing for credit recapture, interest, penalties, additions to tax, and statute of limitations; providing for certified BUILD WV districts and the procedure for designation; granting authority to the Department of Economic Development to administer BUILD WV; providing for the application and procedures for BUILD WV projects; and requiring agreements between the Department of Economic Development and BUILD WV project participants.

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 4511—A Bill to amend and reenact §16-5C-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §36-8-1, §36-8-2, §36-8-8, §36-8-10, §36-8-13, §36-8-15, §36-8-25, and §36-8-33 of said code, all relating generally to unclaimed property and escheatment of said property to the state; providing that personal funds of nursing home residents may be used for the benefit of such residents during their lifetimes with consent of certain authorized persons; requiring nursing homes to keep an accounting of certain receipts and disbursements of resident's personal funds and to provide said accounting to authorized persons in certain circumstances; extending the presumption of abandonment period for personal funds of nursing home residents; specifying that a willful or intentional violation of requirements related to nursing home management of resident's personal funds is a misdemeanor and providing criminal penalties; defining terms; setting forth presumption of abandonment period for virtual currency; setting forth the presumption of abandonment period for demand, savings, or time deposits; requiring the holder of virtual currency to liquidate said currency prior to remittance to the state; providing that the owner of abandoned virtual currency has no recourse against the holder or state for gain in value after liquidation; providing that the administrator shall reimburse the holder of a safety deposit box for the cost of opening said box upon remittance to the administrator using administrative funds in the Unclaimed Property Fund; authorizing the administrator to invest the moneys in the Unclaimed Property Fund and allowing earnings to accrue to said fund; eliminating obsolete language related to previous transfers of moneys from the Unclaimed Property Fund; discontinuing an annual transfer from the Unclaimed Property Trust Fund to the Prepaid Trust Escrow Fund and instead providing for an annual transfer from the Unclaimed Property Trust Fund to the Jumpstart Savings Trust Fund; authorizing the administrator to waive the requirement that an apparent owner file a claim with the administrator in certain circumstances; permitting the

administrator to disclose the monetary value and nature or type of a property to a person who is reasonably believed to be the property's apparent owner or a person authorized to receive the property on the owner's behalf; and requiring the administrator to publish a report including certain unclaimed property data for the most recently concluded fiscal year.

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 4553—A Bill to amend and reenact §8A-1-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8A-7-3 of said code; all relating to zoning requirements for exempt wholesale generators; providing for the definition of "exempt wholesale generator"; and, providing that exempt wholesale generators are a permitted use in any zoning district.

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 4560—A Bill to amend and reenact §17A-6A-2, §17A-6A-3, §17A-6A-5, §17A-6A-8a, §17A-6A-10, §17A-6A-11, §17A-6A-12, §17A-6A-13, §17A-6A-15, §17A-6A-15a, §17A-6A-15c, and §17A-6A-18 of the Code of West Virginia, 1931, as amended, all relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers; clarifying governing law; amending terms related to cancellations of dealer agreements; modifying circumstances not constituting good cause to cancel an agreement; clarifying the standard of proof in termination, cancellation and nonrenewal disputes; modifying compensation terms when contract is discontinued; setting interest rate where payments to dealers from manufacturers or distributors are untimely; increasing the notice period for dealers where a

manufacturer or distributor does not approve a successor dealer or executive manager; clarifying provision related to determination of distance between dealerships; restricting manufacturer and distributor use of dealership property; modifying obligations under warranties; clarifying indemnity practices; identifying unlawful practices; and clarifying manufacturer performance standards.

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 4563—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-6-15a, relating to authorizing auto mechanics to make application for access to the Division of Motor Vehicles' electronic temporary plate issuance system in order to access temporary plates to be used to operate or move a vehicle upon the highways and streets of this state solely for the purposes of diagnosing mechanical or functional problems of a vehicle or testing a vehicle being repaired or serviced; setting forth the application fee for such services; requiring the Commissioner of the Division of Motor Vehicles to determine whether applicants are qualified; requiring the display of proof of insurance upon any vehicles bearing a temporary registration plate; setting forth definitions; authorizing the Commissioner of the Division of Motor Vehicles to terminate an auto mechanic's access to the electronic temporary plate issuance system upon a finding that an auto mechanic's use of that system is in violation of law.

Referred to the Committee on Transportation and Infrastructure; 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 4570—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

section, designated §30-10-24 of this code, all relating to telehealth services; defining terms; establishing requirements for the practice of telehealth; establishing requirements to form a veterinarian-client-patient relationship; providing for renewal of registration; establishing standard of care; and requiring telehealth providers provide certain information for patients.

Referred to the Committee on Agriculture and Rural Development; 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 4600—A Bill to amend and reenact §61-8D-5a of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-11 of said code, all relating to abuse of disabled children; creating penalties for a person who abuses a disabled child; creating penalties for a person who abuses a disabled child causing bodily injury; creating penalties for a person who abuses a disabled child causing serious bodily injury; creating penalties for a person who abuses a disabled child causing death; defining terms used in the section; and creating a penalty for a person in a position of trust in relation to a disabled child who fails to report abuse as a mandatory reporter.

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 4608—A Bill to amend and reenact §15A-11-8 of the Code of West Virginia, 1931, as amended, relating to the probationary status of volunteer firefighters; defining terms; and providing for an effective date.

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 4616—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to exempting firearm safe storage products from the consumer sales tax.

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 4642—A Bill to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to pecuniary interest of county and district officers, teachers, and school officials in contracts; making an exception to criminal violation for contract for goods or supplies when the contract has been put out for competitive bid and the contract is awarded based upon lowest cost.

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 4647—A Bill to amend and reenact §30-6-3, §30-6-8, §30-6-9, §30-6-15, §30-6-16, §30-6-17, §30-6-19, and §30-6-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-6-22b, all relating to the Board of Funeral Service Examiners; permitting alkaline hydrolysis; clarifying terms; removing apprenticeship restrictions on applicants; clarifying apprenticeship course requirements; clarifying examination requirements; eliminating the requirement for board to provide continuing education; providing for a biennial funeral establishment renewal inspection; providing for certification of alkaline hydrolysis;

providing for rules for alkaline hydrolysis; and clarifying recognition of licensees in charge of funeral establishments.

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 4688—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-5V-6a and §16-5V-6b, relating to authorizing county firefighters to be members of the Emergency Medical Services Retirement System; providing for transfer of assets pertaining to county firefighters; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

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. Com. Sub. for House Bill 4692—A Bill to amend and reenact §7-11B-3, §7-11B-7, §7-11B-8, §7-11B-9, and §7-11B-10 of the Code of West Virginia, 1931, as amended, all relating generally to property tax increment financing; amending definition of tax increment financing; modifying the existing authorization for a county commission or municipality to extend the termination time of certain districts; providing for certain notice to other levying bodies prior to a new project plan or project plan amendment for certain property tax districts being considered for approval; and eliminating certain approval of other levying bodies prior to amendment of an existing district by the county commission or governing body of the municipality making the amendment.

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. Com. Sub. for House Bill 4756—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-24; to amend and reenact §8-22-19 and §8-22-20 of said code; to amend and reenact §8-33-4 of said code; to amend said code by adding thereto two new sections, designated §8-33-4a and §8-33-4b; and to amend and reenact §33-3-14d of said code, all relating to authorizing Class I, Class II and Class III municipalities to create pension funding programs to reduce the unfunded liability of policemen's pension and relief funds and firemen's pension and relief funds; authorizing a municipality's allocable portion of funds from the Municipal Pensions Security Fund created in §8-22-18b to be paid to the trustee of an issue of pension funding revenue bonds to be used for the purpose of paying debt service on such bonds until such bonds are paid in full; authorizing municipal building commissions to use the proceeds from pension funding revenue bonds to fund the costs of a municipality's pension funding program; authorizing a municipal building commission to use rentals from real property owned or leased by such commission to pay debt service and administrative expenses associated with outstanding pension funding revenue bonds; authorizing a municipal building commission to issue pension funding revenue bonds to fund a municipality's pension funding program; requiring that each issuance of pension funding revenue bonds provide for a contingency reserve fund in an amount equal to at least 10 percent of the original principal amount of such bonds; requiring that an issue of pension funding revenue bonds be in a principal amount at least equal to the then unfunded liability of such applicable policemen's or firemen's pension and relief fund; providing for the use of excess moneys held by a bond trustee upon the payment in full of pension funding revenue bonds; requiring the approval of the Municipal Pension Oversight Board of the issuance of certain pension funding revenue bonds and requiring the submission of information relating to such bonds to the Joint Committee on Government and Finance.

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 and requested the concurrence of the Senate in the passage of

Eng. House Bill 4778—A Bill to amend and reenact §31A-4-33 of the Code of West Virginia, 1931, as amended, all relating to establishing duties of financial institutions with regard to multiple-fiduciary accounts and payments of multiple fiduciary accounts; 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 4779—A Bill to amend and reenact §7-6-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-13-22a of said code; and to amend and reenact §12-1-4 of said code, all relating to county depositories; relating to the bonds of depositories; and relating to the investment of municipal funds for municipal corporations and bonds to be given by state depositories.

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 4787—A Bill to amend the Code of West Virginia Code, 1931, as amended, by adding thereto a new article designated §17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7, §17H-1-8, §17H-1-9, §17H-1-10, §17H-1-11, §17H-1-12, §17H-1-13, §17H-1-14, §17H-1-15, and §17H-1-16, all relating to establishing the Fully Autonomous Vehicle Act; providing definitions concerning fully autonomous vehicles; providing rules and regulations for the operation of fully

autonomous vehicles; providing for the operation of on-demand autonomous vehicle transportation networks; providing for the operation of fully autonomous motor vehicle carriers; providing for the platooning of fully autonomous vehicles; providing for the licensing and insurance requirements of fully autonomous vehicles; providing for control and regulation of fully autonomous vehicles; and providing for the equipment standards for fully autonomous vehicles.

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 4794—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6-9B-5, relating to requiring counties to provide certain information to the State Auditor for inclusion in the financial transparency website.

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 4829—A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended, relating to modifying the definitions of certain school cafeteria personnel.

Referred to the Committee on Education.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

March 2, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Three Thousand Two Hundred Twenty (3220), which was presented to you me on February 24, 2022.

House Bill No. Four Thousand Sixty (4060), which was presented to me on February 24, 2022.

Committee Substitute for House Bill No. Four Thousand One Hundred Fourteen (4114), which was presented to me on February 24, 2022.

You will note that I have approved these bills on March 2, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

March 2, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

House Bill No. Three Thousand Three Hundred Three (3303), which was presented to me on March 2, 2022.

You will note that I have approved this bill on March 2, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 668, Clarifying eligibility for probation and parole conditions for sex 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 668) 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 671, Modernizing regulation of car-sharing services in WV.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 671) passed.

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

Eng. Com. Sub. for Senate Bill 671—A Bill to amend and reenact §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-5, §17A-6F-7, and §17A-6F-13 of the Code of West Virginia, 1931, as amended, all relating to the regulation of peer-to-peer car sharing program; modifying scope of regulation of peer-to-peer car sharing program; modifying certain definitions; modifying and eliminating certain provisions governing insurance coverage during car sharing period; modifying provision governing exclusions for vehicle liability insurance; clarifying provision governing exemption for vicarious liability; and inserting stylistic citation in notification requirements imposed on peer-to-peer car sharing programs.

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

Eng. Senate Bill 680, Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

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

**ARTICLE 1. WEST VIRGINIA EMERGENCY RESPONDERS
SURVIVOR BENEFIT ACT.**

§5H-1-2. First responder survivor benefit.

(a) *Terms.* — For the purposes of this article, the following terms have the following meanings:

(1) "Emergency responder" means a paid or volunteer firefighter, EMS personnel, law-enforcement agency personnel, ~~or~~ Division of Forestry personnel, or Division of Corrections and Rehabilitation personnel assigned to and working at an institution managed by the commissioner as described in §15A-3-12(a) of this code.

(2) "Emergency response duties" means:

(A) For a firefighter, EMS provider, or law-enforcement agency personnel, participation in any role of a fire department, EMS agency, or law-enforcement agency function, including, but not limited to: Training functions; administrative meetings; fire department, EMS agency, or law-enforcement incidents or service calls; apparatus, equipment, or station maintenance; and fundraisers, including travel to or from such functions; ~~and~~

(B) For a Division of Forestry employee, participation in Division of Forestry wildland fire fighting, emergency, or disaster response operations, including, but not limited to, travel to and from the locations of wildland fires, emergencies, or disasters; and

(C) For a Division of Corrections and Rehabilitation employee, participation in any role in the division, including, but not limited to: Training functions; administrative meetings; corrections or parole incidents or activities; interactions with inmates, former inmates, inmates or former inmates' family or associates, parolees, former parolees, former parolees' family, or associates; and travel to or from any of these activities.

(3) "Law-enforcement agency" means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service Commission nor any state institution of higher education nor any resort area district is a law-enforcement agency.

(4) "Travel" includes riding upon or in any apparatus or vehicle which is owned or used by the fire department, EMS agency, law-enforcement agency, ~~or the Division of Forestry,~~ the Division of Corrections and Rehabilitation, or any other vehicle going to, or directly returning from, an emergency responder's home, place of business, or other place where he or she ~~shall have~~ has been prior to participating in a fire department function, EMS agency function, law-enforcement agency function, or a Division of Forestry wildland fire-fighting operation, or upon the authorization of the chief of the department, agency head, or other person in charge.

(b) An emergency responder who dies as a proximate result of the performance of his or her emergency response duties is eligible for the survivor benefits established by this ~~act~~ article.

(c) Within 30 days after the death of an eligible emergency responder, the department or agency head shall submit certification of the death to the Governor's Office. Certification of the death shall include the name of the certified fire department, EMS agency, law-enforcement agency, ~~or Division of Forestry program,~~ or Division of Corrections and Rehabilitation program, the name of the deceased emergency responder, the name or names and addresses of the beneficiary or beneficiaries, any documentation designating a beneficiary or beneficiaries, and a description of the circumstances that qualify the deceased individual for survivor benefits under this ~~act~~ article.

(d) Upon receipt of the certification of the death from the certified fire department, EMS agency, law-enforcement agency, ~~or Division of Forestry program,~~ or Division of Corrections and Rehabilitation program, the state shall, from moneys from the State Treasury, General Fund, pay to the certified fire department, EMS agency, law-enforcement agency, ~~or Division of Forestry program,~~ or Division of Corrections and Rehabilitation program, the sum of \$100,000 in the name of the beneficiary or beneficiaries of the emergency responder eligible for the survivor benefit. Within five days of receipt of this sum from the state, the fire department, EMS agency, law-enforcement agency, ~~or Division of Forestry Program,~~ or Division of Corrections and Rehabilitation program, shall pay

the sum as a benefit to the surviving designated beneficiary or beneficiaries. If there is no surviving designated beneficiary, then the sum shall be paid as if the decedent had designated as beneficiaries those persons who are entitled to inherit the decedent's intestate estate, in the proportions established by §42-1-3 and §42-1-3a of this code. It is the responsibility of the certified fire department, EMS agency, law-enforcement agency, or Division of Forestry program to document the beneficiary or beneficiaries above mentioned for purposes of reporting to the Governor's Office.

(e) Any death ruled by a physician to be a result of an injury sustained during performance of emergency response duties makes a deceased emergency responder eligible for this benefit, regardless of when the death occurs.

(f) The death of an eligible emergency responder qualifies his or her beneficiaries for only one state survivor benefit, paid pursuant to the provisions of this section, regardless of the amount.

(g) Every department or agency head employing persons to which this article applies shall provide notice of the benefit provided hereby to such employees and encourage covered employees to provide a written designation of beneficiary to be maintained in the employee's personnel file.

(h) A person applying to the State Fire Marshal for certification as a firefighter shall provide a written designation of beneficiary using forms and procedures prescribed by the State Fire Marshal.

(i) A person applying to the Commissioner of the Bureau for Public Health for emergency medical services personnel certification shall provide a written designation of beneficiary using forms and procedures prescribed by the commissioner.

§5H-1-3. Effective date.

(a) The effective date for this ~~aet~~ article is January 1, 2007. The operation of the amendments to this article enacted during the year 2012 shall be effective retroactively to January 1, 2012.

(b) The operation of the amendments to this article enacted during the 2018 First Extraordinary Session of the Legislature shall be effective retroactively to January 1, 2018.

(c) The operation of the amendments to this article enacted during the regular session of the Legislature, 2022, shall be effective retroactively to March 14, 2020.

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

Engrossed Senate Bill 680 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 680) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 680) 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 687, Relating to meetings among county boards of education.

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

On the passage of the bill, the yeas were: Azinger, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Baldwin, Boley, and Karnes—3.

Absent: Stover—1.

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

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

Eng. Senate Bill 687—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-28, relating to meetings of county boards of education to explore and discuss the feasibility of consolidating school districts or sharing certain services; requiring, when two or more county boards of education elect to explore and discuss with each other the idea of possibly consolidating or sharing certain services and functions, the boards to agree on the call of a joint special public meeting; specifying minimum topics; requiring facilitator for the meeting; requiring facilitator to prepare and

deliver to the participating boards a detailed written report of the meeting's discussions and identifying any areas for further discussion or consideration by the boards; requiring each participating board to determine whether to accept the report and whether the participating boards should meet again; providing that upon vote to accept of the facilitator's report and hold another meeting, the participating boards shall attend another meeting; specifying minimum topics; requiring the facilitator to prepare and deliver to the participating boards a detailed written report of the meeting's discussion and identifying any areas for further discussion or consideration; requiring each participating board to determine whether to accept the report and whether the participating boards should meet again; requiring meeting process to be repeated until 120 days have passed since the initial joint meeting or until the participating boards no longer wish to meet; requiring a full report of all meetings identifying the extent to which the participating boards think existing laws may enable or complicate the consolidation of school districts or the sharing of services and functions, together with any suggestions of legislation; requiring report, upon approval by the participating boards, to be forwarded to the President of the Senate and the Speaker of the House of Delegates; authorizing Legislature to consolidate participating county boards as a pilot; and authorizing Legislature to incentivize county boards to explore and discuss the feasibility of consolidating school districts or sharing of services.

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

Eng. Senate Bill 703, Relating to controlled substances schedule.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 703) 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 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

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 704 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Clements, Grady, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—28.

The nays were: Caputo, Geffert, Hamilton, Romano, and Stollings—5.

Absent: Stover—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. 704) 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 711, Establishing alternative educational opportunities for elective course credit.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 711) passed.

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

Eng. Senate Bill 711—A Bill to amend and reenact §18-2-7f of the Code of West Virginia, 1931, as amended, relating to establishing alternative educational opportunities for elective course credit; requiring the state board to establish, develop, and maintain a program whereby students can earn elective course credit for extended learning opportunities that take place outside of the traditional classroom setting; specifying minimum entities eligible to provide extended learning opportunity programs; requiring individuals or entities seeking certification as an eligible extended learning opportunity program to successfully complete an application process; imposing requirements on extended learning opportunity providers pertaining to compliance with applicable federal and state health and safety laws and regulations, compliance with standards and safeguards provided by the West

Virginia Board of Education, background checks for key personnel or instructional staff, and proof of insurance; addressing the denial of a program application; providing for monitoring, evaluation, and inspection of approved programs; allowing extension of approval or disqualification for violation of state law or state board policies; allowing appeal of denial or disqualification; requiring the county boards of education to adopt an alternative educational opportunities policy that facilitates implementation and participation; requiring parental or legal guardian approval for participation of student under 18; allowing students transferring schools to request acceptance of elective course credits awarded for program completion; addressing transportation to and from an approved program; allowing auditing of approved programs at any time and disqualification for not meeting certain provisions; and requiring report to the Legislative Oversight Commission on Education Accountability with respect to the implementation of extended learning opportunity programs.

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

Eng. Senate Bill 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

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

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for Senate Bill 653, already placed in that position.

Eng. Senate Bill 728, Requiring registered sex offenders pay annual fee.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

On page one, after the enacting clause, by inserting the following:

ARTICLE 2C. CENTRAL ABUSE REGISTRY.

§15-2C-2. Central Abuse Registry; required information; procedures.

(a) The Criminal Identification Bureau of the West Virginia State Police shall establish a Central Abuse Registry, to contain information relating to criminal convictions involving child abuse or neglect, abuse or neglect of an incapacitated adult or an adult receiving behavioral health services, and misappropriation of property by individuals specified in subsection (b) of this section and information relating to individuals required to be registered as a sex offender.

(b) The Central Abuse Registry shall contain, at a minimum, information relating to: Convictions of a misdemeanor or a felony involving abuse, neglect or misappropriation of property, by an individual performing services for compensation, within the scope of the individual's employment or contract to provide services, in a residential care facility, in a licensed day care center in connection with providing behavioral health services, or in connection with the provision of home care services; information relating to individuals convicted of specific offenses enumerated in §15-2C-3(a) of this code with respect to a child or an incapacitated adult or an adult receiving behavioral health services; information relating to all individuals required to register with the Child Abuse and Neglect Registry established pursuant to §15-13-1 *et seq.* of this code; and information relating to all individuals required to register with the West Virginia State Police as sex offenders pursuant to the provisions of §15-12-1 *et seq.* of this code. The Central Abuse Registry shall contain the following information:

(1) The individual's full name;

(2) Sufficient information to identify the individual, including date of birth, social security number and fingerprints if available;

(3) Identification of the criminal offense constituting abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services;

(4) For cases involving abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services in a residential care facility or a day care center, or of a child or an incapacitated adult or an adult receiving behavioral health services receiving home care services, sufficient information to identify the location where the documentation of any investigation by the Department of Health and Human Resources is on file and the location of pertinent court files; and

(5) Any statement by the individual disputing the conviction, if he or she chooses to make and file one.

(c) Upon conviction in the criminal courts of this state of a misdemeanor or a felony offense constituting child abuse or neglect or abuse or neglect of an incapacitated adult or an adult receiving behavioral health services, the individual so convicted shall be placed on the Central Abuse Registry.

(d) A person required to be placed on the Central Abuse Registry pursuant to this section shall pay an annual fee of \$75, to be paid between January 1 and January 30 of each year. The fee shall be collected and utilized by the State Police to defray costs associated with maintaining the registry: *Provided*, That failure to pay the annual fee under this subsection shall not be deemed a violation of the person's supervised release: *Provided, however*, That notice by the State Police that the annual fee has not been paid may be recorded in the office of the clerk of the county commission where the person required to register resides, where the same shall have the force and effect of a judgment, and the same shall be recorded and indexed by the clerk in the judgment lien docket.

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

Engrossed Senate Bill 728 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill 728 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 728) passed.

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

Eng. Senate Bill 728—A Bill to amend and reenact §15-2C-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-12-2 of said code, all relating to requiring certain persons required to register with State Police to pay an annual fee; requiring registered sex offenders to pay annual fee; providing for use of fee by State Police to defray costs associated with monitoring sex offenders; providing that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and providing for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment; requiring persons required to be placed on Central Abuse Registry to pay annual fee; providing for use of fee by State Police to defray costs associated with maintaining registry; providing that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and providing for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment.

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

Eng. Senate Bill 729, Relating to funding for infrastructure and economic development projects in WV.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 729) passed.

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

Eng. Senate Bill 729—A Bill to repeal §31-15-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §12-6C-11 of said code; to amend said code by adding thereto a new section, designated §12-6C-11b; and to amend said code by adding thereto a new section, designated §31-15-23a, all relating generally to funding for infrastructure and economic development projects in the state; discontinuing the revolving loan from the Board of Treasury Investments to the Economic Development Authority upon the authority's receipt of an appropriation by the Legislature; requiring the Board of Treasury Investments to make a revolving loan available to the Department of Transportation; establishing a special revenue fund to receive loan moneys; permitting the Secretary of Transportation to make certain expenditures of loan moneys; requiring the secretary to reimburse the fund upon receipt of federal reimbursement moneys; providing when moneys in the fund will revert to the Consolidated Fund; establishing reporting requirements related to the fund; allowing

the Board of Treasury Investments to inspect records related to the fund; defining terms; establishing a special revenue fund to receive moneys appropriated to the Economic Development Authority; allowing the authority to invest the moneys in the fund; providing that a certain amount of moneys in the fund be used for high impact economic development projects; establishing accounting and auditing standards related to the fund; and establishing project status reporting requirements related to the fund.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 729) 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 730, Divesting state-managed funds from companies engaged with Russia or Russian energy.

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 730 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 730) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 730) takes effect from passage.

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

Eng. House Bill 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4773) passed with its title.

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

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for Com. Sub. for Senate Bill 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

On third reading, coming up in deferred order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

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

ARTICLE 2Q. UNBORN CHILD WITH DOWN SYNDROME PROTECTION AND EDUCATION ACT.

§16-2Q-1. Short title.

This article shall be known and cited as the Unborn Child with Down Syndrome Protection and Education Act.

§16-2Q-2. Definitions.

As used in this article only:

"Abortion" means the same as that term is defined in §16-2F-2 of this code.

"Attempt to perform or induce an abortion" means the same as that term is defined in §16-2M-2 of this code.

"Because of a disability" means on account of the presence or presumed presence of a genetic, physical, emotional, or intellectual disability or diagnosis in the unborn human being including, but not limited to, chromosomal disorders or morphological malformations occurring as the result of atypical gene expressions.

"Conception" means the fusion of human spermatozoon with a human ovum.

"Commissioner" means the commissioner of the Bureau for Public Health.

"Health care practitioner" means a person who is licensed, certified, or otherwise authorized by law or regulation to provide or render health care services or genetic counseling to expectant or new parents.

"Human being" means an individual member of the species Homo sapiens, from and after the point of conception.

"Medical emergency" means the same as that term is defined in §16-2I-1 of this code.

"Physician" or "referring physician" means the same as that term is defined in §16-2M-2 of this code.

"Reasonable medical judgment" means the same as that term is defined in §16-2M-2(10) of this code.

"Severe fetal condition" means a life-threatening physical condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb.

§16-2Q-3. Dissemination of information on fetal disabilities.

(a) Requirement. — A health care practitioner that administers, or causes to be administered, a test for any physical, emotional, or intellectual disability or diagnosis to an expectant or new parent shall, upon receiving a test result that confirms the presence of any disability, provide the expectant or new parent with educational information made available by the department under §16-2Q-4 of this code.

(b) Delivery of information prepared by the department in accordance with §16-2Q-4 of this code at the time genetic results or diagnostic conclusions are provided shall constitute compliance with this section.

§16-2Q-4. Informational publications by department.

General rule. —The Department of Health and Human Resources shall make the following available to health care practitioners on the department's publicly accessible internet website:

(a) Up-to-date, evidence-based information about any in-utero physical, emotional, or intellectual disability or diagnosis that has been reviewed by medical experts and any national disability rights organizations. The information provided shall include the following:

(1) Physical, developmental, educational, and psychosocial outcomes;

(2) Life expectancy;

(3) Clinical course;

(4) Intellectual and functional development;

(5) Treatment options; and

(6) Any other information the department deems necessary;

(b) Contact information regarding first call programs and support services, including the following:

(1) Information hotlines specific to any in-utero fetal disabilities or conditions;

(2) Relevant resource centers or clearinghouses;

(3) National and local disability rights organizations; and

(4) Education and support programs.

The information provided in accordance with this article shall conform to the applicable standard or standards provided in the Enhanced National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care as adopted by the United States Department of Health and Human Services and published in the Federal Register on September 24, 2013.

§16-2Q-5. Abortion may not be performed because of a disability, except in a medical emergency.

(a) Except in a medical emergency, or if the unborn human being has a severe fetal condition, as defined in §16-2Q-2 of this code, a person may not perform, induce, or attempt to perform or induce an abortion unless the physician who is to perform or induce the abortion has first confirmed that the abortion is not being sought because of a disability, as defined in §16-2Q-2 of this code, including Down syndrome and documented these facts in the maternal patient's chart, as well as in the report to be filed with the commissioner as set forth in subsection (c) of this section.

(b) Except in a medical emergency, or if the unborn human being has a severe fetal condition, as defined in §16-2Q-2 of this code, a person may not intentionally or knowingly perform, induce, or attempt to perform or induce an abortion of an unborn human being if the abortion is being sought because of a disability, a defined in §16-2Q-2 of this code, including Down syndrome.

(c) In every case in which a physician performs or induces an abortion on an unborn human being, the physician shall, within 15

days of the procedure, cause to be filed with the commissioner, on a form supplied by the commissioner, a report containing the following information:

(1) Date the abortion was performed;

(2) Specific method of abortion used;

(3) Whether the presence or presumed presence of any disability in the unborn human being had been detected at the time of the abortion by genetic testing or any other fetal testing, such as maternal serum tests, or ultrasound, such as by nuchal translucency screening (NT), or by other forms of testing;

(4) A statement confirming that the reason for the abortion, as stated by the maternal patient, was not because of a disability, as defined in §16-2Q-2 of this code, including Down syndrome;

(5) Probable health consequences of the abortion to the maternal patient and specific abortion method used;

(6) Whether a medical emergency as defined in §16-2Q-3 existed; and

(7) Whether the unborn human being had a severe fetal condition as defined in §16-2Q-3.

The physician shall sign the form as his or her attestation under oath that the information stated is true and correct to the best of his or her knowledge.

(d) Reports required and submitted under subsection (c) of this section may not contain the name of the maternal patient upon whom the abortion was performed or any other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who obtained or sought to obtain an abortion.

§16-2Q-6. Reporting forms.

The commissioner shall create the forms required by this article within 30 days after the effective date of this article. No provision

of this article requiring the reporting of information on forms published by the commissioner may be applicable until 10 days after the requisite forms have been made available or the effective date of this article, whichever is later.

§16-2Q-7. Professional sanctions and civil penalties.

(a) A physician who intentionally or knowingly violates the prohibition in §16-2Q-5(b) of this code commits an act of unprofessional conduct and his or her license to practice medicine in the State of West Virginia shall be suspended or revoked pursuant to the West Virginia Board of Medicine and pursuant to §30-3-1 *et seq.* of this code and the West Virginia Board of Osteopathic Medicine and pursuant to §30-14-1 *et seq.* of this code.

(b) A physician who knowingly or intentionally delivers to the commissioner any report required by §16-2Q-5(c) of this code, and known by him or her to be false, is subject to a civil penalty or fine as determined by the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine.

§16-2Q-8. Additional enforcement.

The Attorney General may bring an action in law or equity to enforce the provisions of this article on behalf of the Commissioner of the Bureau for Public Health, the West Virginia Board of Medicine, or the West Virginia Board of Osteopathic Medicine. The West Virginia Board of Medicine or the West Virginia Board of Osteopathic Medicine may bring such action on its own behalf.

§16-2Q-9. Construction.

Nothing in this article may be construed as creating or recognizing a right to abortion or as altering generally accepted medical standards. Further, it is not the intention of this article to make lawful an abortion that is currently unlawful.

§16-2Q-10. Severability.

It is the intent of the Legislature that every provision of this article shall operate with equal force and shall be severable one

from the other. If any provision of this article is held invalid or unenforceable by a court of competent jurisdiction, that provision shall be deemed severable, and the remaining provisions of this article deemed fully enforceable.

§16-2Q-11. Effective date.

This article shall take effect on July 1, 2022.

Following discussion,

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

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 468 was then put upon its passage.

Pending extended discussion,

(Senator Grady in the Chair.)

Pending discussion,

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

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 468 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—28.

The nays were: Beach, Brown, Caputo, Geffert, and Romano—5.

Absent: Stover—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. 468) 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 Com. Sub. for Senate Bill 468—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2Q-1, §16-2Q-2, §16-2Q-3, §16-2Q-4, §16-2Q-5, §16-2Q-6, §16-2Q-7, §16-2Q-8, §16-2Q-9, §16-2Q-10, and §16-2Q-11, all relating to creating the Unborn Child with Down Syndrome Protection and Education Act; providing a short title; defining terms; requiring health care practitioner to provide certain information to expectant or new parents; requiring Department of Health and Human Resources to make certain information available to health care practitioners on website; prohibiting abortion before confirming and documenting that abortion is not sought because of a disability except in medical emergency or severe fetal condition; prohibiting abortion because of disability except in medical emergency or severe fetal condition; requiring physician who performs or induces abortion to report certain anonymous information to Commissioner; requiring Commissioner to create forms and providing for applicability of reporting requirements; providing for professional sanctions and civil penalties or fines; authorizing Attorney General, West Virginia Board of Medicine, and West Virginia Board of Osteopathic Medicine to bring action; clarifying effect of article with respect to right to abortion, generally accepted medical standards, and currently unlawful abortions; providing for severability; and providing effective date.

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

At the request of Senator Sypolt, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business.

Consideration of Engrossed Committee Substitute for Committee Substitute for Senate Bill 468 having been concluded, the Senate proceeded to the consideration of

Eng. Com. Sub. for Senate Bill 653, Relating to public higher education governance.

On third reading, coming up in deferred order, with the right having been granted on yesterday, Tuesday, March 1, 2022, for amendments to be received on third reading, was read a third time.

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

On page thirty-three, section thirteen, after line one hundred twenty-four, by adding thereto a new subsection, designated subsection (i), to read as follows:

(i) For the 2023 fiscal year only, the Legislature shall continue to appropriate money directly to Pierpont Community and Technical College in the same manner as it would appropriate money to any other independent community and technical college.

On motion of Senator Martin, the following amendment to the bill (Eng. Com. Sub. for S. B. 653) was next reported by the Clerk and adopted:

On page twenty-nine, section thirteen, line forty-one, after the word "technology.", by inserting the following: Fairmont State University shall not discontinue the aviation maintenance technology program until three years after providing notice to the Higher Education Policy Commission and the Legislative Oversight Commission on Education Accountability of its intent to discontinue the program.

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

Engrossed Committee Substitute for Senate Bill 653 was then put upon its passage.

On the passage of the bill, the yeas were: Boley, Brown, Caputo, Clements, Geffert, Jeffries, Lindsay, Maroney, Martin, Nelson, Phillips, Roberts, Romano, Smith, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Azinger, Baldwin, Beach, Grady, Hamilton, Karnes, Maynard, Plymale, Rucker, Sypolt, and Woelfel—11.

Absent: Stover—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. 653) 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 653—A Bill to repeal §18B-2A-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-3C-8 and §18B-3C-13 of said code, and to amend said code by adding thereto a new section, designated §18B-3C-13a, all relating to public higher education governance; making Pierpont Community and Technical College a fully integrated division of Fairmont State University known as the Pierpont College of Community and Technical Education on July 1, 2023; increasing the number of members of the Fairmont State University Board of Governors to 15 persons; requiring the appointment by the Governor of at least one member on the Fairmont State University Board of Governors who has knowledge and practical experience in community and technical education; providing for two faculty members on the Fairmont State University Board of Governors at least one of which shall be from the faculty of the Pierpont College of Community and Technical Education selected by the faculty senate; providing that the administrative head of the Pierpont College of Community and Technical Education shall be a dean appointed by the President of Fairmont State University; requiring Fairmont State University to adhere to all provisions set forth in code and the rules of the Community and Technical College Council in the delivery of community and technical college education and programs; prohibiting Fairmont State University from discontinuing the aviation maintenance technology program until three years after providing notice; providing that the Fairmont State University

Pierpont College of Community and Technical Education shall not maintain independent accreditation status; providing for a transition period to achieve full accreditation by the Higher Learning Commission; authorizing Fairmont State University to begin the change of control, structure, or organization process with the Higher Learning Commission on or after July 1, 2022; providing for the chairman of the Fairmont State University Board of Governors to appoint an advisory board to provide guidance to the board of governors in fulfilling the mission of the Pierpont College of Community and Technical Education; providing that the members of the advisory board shall elect a chairperson on or after July 1, 2023, who shall be an ex-officio, voting member of the Fairmont State University Board of Governors; providing that the operating budget of Pierpont Community and Technical College is integrated under the authority and jurisdiction of the Fairmont State University Board of Governors; transferring all financial assets and liabilities from the authority of Pierpont Community and Technical College Board of Governors to the authority of the Fairmont State University Board of Governors; providing that all revenue and refunding revenue bonds, the debt service thereon and the other obligations under the resolutions adopted and any trust agreements entered in connection therewith, and any other capital debt service payment formerly the responsibility of Pierpont Community and Technical College continue in existence and are the responsibility of the Board of Governors of Fairmont State University; transferring titles to all real property, facilities, and equipment of, as well as each valid agreement undertaken by Pierpont Community and Technical College to the Fairmont State University Board of Governors; vesting title of all property purchased for the use of Pierpont Community and Technical College in the Fairmont State University Board of Governors; making faculty, classified employees, and nonclassified employees of Pierpont Community and Technical College employees of Fairmont State University; requiring Fairmont State University to develop an articulation agreement of course credit transfer of two-year academic programs to four-year academic programs; requiring Fairmont State University to continue participation in the Advanced Career Education Programs and the West Virginia Invests Grant Program;

providing that Pierpont College of Community and Technical Education remains under the jurisdiction of the Community and Technical College Council; requiring reports to the Council for Community and Technical College Education and the Legislative Oversight Commission on Education Accountability; requiring the Legislature to continue to appropriate money directly to Pierpont Community and Technical college for the 2023 fiscal year; providing for transition team oversight with a sunset date; updating certain state institution of higher education names; repealing outdated language; and deleting obsolete language.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Brown, Caputo, Clements, Geffert, Grady, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Smith, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Hamilton, Karnes, Plymale, Rucker, and Sypolt—7.

Absent: Stover—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. 653) takes effect from passage.

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

Consideration of Engrossed Committee Substitute for Senate Bill 653 having been concluded, the Senate proceeded to the consideration of

Eng. Senate Bill 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes—1.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 726) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes—1.

Absent: Stover—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. 726) 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 250, Budget Bill.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Beach, Weld, and Karnes.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Beach and Weld were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on March 1, 2022:

Com. Sub. for Senate Bill 498: Senators Azinger, Sypolt, Karnes, and Maynard;

Senate Bill 686: Senator Nelson;

Senate Joint Resolution 3: Senator Caputo;

Senate Concurrent Resolution 49: Senators Caputo and Smith;

And,

Senate Resolution 46: Senators Stollings, Caputo, Hamilton, and Rucker.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:09 p.m., the Senate adjourned until tomorrow, Thursday, March 3, 2022, at 11 a.m.

THURSDAY, MARCH 3, 2022

The Senate met at 11:17 a.m.

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

Prayer was offered by Dr. Wanda Carter-Shelton, Pastor of Greater New Jerusalem Worship Center, Charleston, 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 Wednesday, March 2, 2022,

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

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

Senator Takubo called attention to today being the birthday of the senator from Tucker and on behalf of the Senate extended felicitations and good wishes to Senator Smith.

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 2300—A Bill to amend and reenact §51-9-1a of the Code of West Virginia, 1931, as amended, relating to including family court judges in the Judges' Retirement System.

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. House Bill 2751—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6-9C-1, §6-9C-2, §6-9C-2A, §6-9C-3, §6-9C-4, §6-9C-5, §6-9C-6, §6-9C-7, §6-9C-8, §6-9C-9, §6-9C-10, and §6-9C-11; to amend and reenact §8-35-2 of said code; and to amend said code by adding thereto by adding 4 new sections, designated §8-35-3, §8-35-4, §8-35-5 and §8-35-6, all relating generally to fiscal emergencies of local governments; establishing a system to remediate those emergencies; requiring certain action be taken by the State Auditor or a designee; and modernizing the process for the dissolution of municipalities.

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 2910—A Bill to amend and reenact §50-1-2, §50-1-3, and §50-1-13 of the Code of West Virginia, 1931, as amended, all relating generally to magistrates; relating to the allocation of magistrates serving in each county; setting a standardized formula for magistrate apportionment; providing for adjustment of those numbers of magistrates every 10 years following the census; removing the cap of 158 magistrates statewide; requesting the Chief Justice of the Supreme Court of Appeals develop a rule creating a system in which magistrates may be assigned on a temporary rotating basis outside the county of their election or appointment to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental hygiene petitions, emergency juvenile delinquency petitions, and applications for issuance of search warrants in counties in which he or she was not elected or appointed; granting the court authority to organize the system on a circuit-wide or regional basis as the court chooses; clarifying that

magistrates may preside remotely if the Supreme Court of Appeals determines it appropriate; and eliminating antiquated language.

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. House Bill 3073—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5D-6, relating to establishing the West Virginia Emergency School Food Act; providing findings; directing a county-by-county assessment of noninstructional or nontraditional remote learning day and public virtual school student feeding initiative; food insecurities; empowering county school boards to develop initiatives and programs for feeding students in need during summer and other noninstructional or nontraditional remote or virtual learning day time periods; providing county board reporting requirements to the Office of Child Nutrition; and directing the Office of Child Nutrition to collect and distribute information regarding available food resources and to create a crisis management and prevention plan that includes an assessment and plan to feed students.

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 4001—A Bill to amend and reenact §31G-1A-7 of the Code of the West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §31G-3-5; to amend said code by adding thereto a new section, designated §31G-4-2a; to amend said code by adding thereto a new article, designated §31G-7-1, §31G-7-2, §31G-7-3, §31G-7-4 and §31G-7-5; and to amend said code by adding thereto a new article, designated §31G-8-1, §31G-8-2 §31G-8-3 and

§31G-8-4, all relating to certain provisions relating to broadband; creating a process for the mapping of disturbances in rights of way; creating utility pole rights of way and easement mapping initiative; creating existing customer protections for the Office of the Attorney General in coordination with the Office of Broadband and Department of Economic Development; establishing fees; providing for competitive access infrastructure; providing for credits; defining modems and other connection devices; defining competitive access infrastructure; defining eligible telecommunications carriers; defining the status of such; and providing for penalties where misrepresentation of eligible telecommunications carrier status occurs.

Referred to the Committee on Economic Development; 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 4020—A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §5F-2-1 of said code; all relating to reorganizing the Department of Health and Human Resources; separating the Department of Health and Human Resources into two departments; creating the Department of Health; creating the Department of Human Resources; establishing the organizational structure of the Department of Health; and establishing the organizational structure of the Department of Human Services.

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 4021—A Bill to amend and reenact §18C-3-1 of the Code of West Virginia, 1931, as amended, relating to the Medical Student Loan Program; defining terms; establishing programs at certain schools, authorizing medical

schools to make loans; authorizing the use of special revolving funds for program use; establishing eligibility requirements; setting maximum loan amount; requiring an agreement for persons participating; requiring persons participating to select service commitment area; providing for cancellation of loan if person satisfies the obligations of the service agreement; establishing repayment obligation for those participants who do not satisfy commitment obligation; creating procedure for person to request working less than full-time; and establishing school reporting requirements.

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 4050—A Bill to amend and reenact §19-18-1 of the Code of West Virginia, 1931, as amended, relating to defining terms related to livestock trespassing.

Referred to the Committee on Agriculture and Rural Development.

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 4293—A Bill to amend and reenact §3-3-5 of the Code of West Virginia, 1931, as amended, relating to absentee ballots; requiring applications for absentee ballots to be available at the office of the county clerk and online at the Secretary of State's official website; permitting first responders to vote by electronic absentee ballot in certain emergency circumstances; defining "qualified first responder" and providing examples; providing for submittal and acceptance of qualified first responder absentee voting applications; providing for transmittal of ballots to qualified first responders; providing for processing of received electronic absentee ballots cast by qualified first responders; prohibiting an election official from providing an

unsolicited application for absentee voting to any voter; prohibiting any person from providing more than 10 unsolicited applications for absentee voting to any voter; creating a misdemeanor penalty upon conviction for such prohibited activity; and providing 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 4320—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-14, relating to requiring that a covered employer accept biological immunity for a communicable disease; prohibiting requiring a vaccine if protective antibody level occur; and defining terms.

Referred to the Committee on Government Organization; 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. Com. Sub. for House Bill 4336—A Bill to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended; relating generally to valuation and assessment regarding personal property taxation; providing for a revised methodology to value property producing oil, natural gas, and natural gas liquids by the Tax Commissioner for property tax assessments; providing for methods, limitations, calculation requirements, and definitions, all of which are used to determine fair market value, net proceeds, actual annual operating costs, a capitalization rate, production decline rates, a yield capitalization model, a working interest model, and a royalty interest model; providing for a safe harbor for marginal wells costs; providing limitations on calculations by the commissioner; providing for annualized gross receipts and actual annual operating expenses before calculation of the models;

providing limitations on minimum valuations of wells; providing for reporting by the Tax Commissioner of certain information; providing for rule-making; providing a sunset date; and providing multiple effective dates.

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 4353—A Bill to amend and reenact §3-1-30 and §3-1-31 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-2-19 of said code; to amend and reenact §3-11-1 of said code; to amend and reenact §7-1-1a of said code; to amend and reenact §7-4-1 of said code; to amend and reenact §7-14B-21 of said code; to amend and reenact §7-17-12 of said code; to amend and reenact §7-20-7 and §7-20-12 of said code; to amend and reenact §8-1-2 of said code; to amend and reenact §8-2-5 of said code; to amend and reenact §8-3-6 of said code; to amend and reenact §8-4-7, §8-4-8, and §8-4-10 of said code; to amend and reenact §8-5-5 of said code; to amend and reenact §8A-7-7, §8A-7-8a, and §8A-7-13 of said code; to amend and reenact §11-8-16, and §11-8-17 of said code; to amend and reenact §13-1-7, and §13-1-11 of said code; to amend and reenact §15-2-13 of said code; to amend and reenact §16-12-1 of said code; to amend and reenact §18-9-1, §18-9-2, and §18-9-2a of said code; to amend and reenact §20-5K-3 of said code; to amend and reenact §22-15A-18 of said code; to amend and reenact §22C-4A-2, and §22C-4A-3 of said code; to amend and reenact §22C-6-3 of said code; to amend and reenact §29-22C-7 of said code; to amend and reenact §29-25-7 of said code; to amend and reenact §47-20-26 of said code; to amend and reenact §47-21-24 of said code; and to amend and reenact §60-5-1, §60-5-3, and §60-5-4 of said code, all relating to bringing uniformity to local elections by ensuring that all counties hold local elections on a date that a statewide election is already taking place, on a primary or general election date; requiring that local elections and any elections to increase levies coincide with a primary or a general election; removing references to special elections for levies; providing a saving clause for the renewal of

existing levies by providing for levying bodies and boards of education to vote in order to schedule such elections to renew or extend these levies in a manner which brings them into conformity with the new structure; and authorizing poll clerks to work and be compensated for both full and half days worked during an election.

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 4373—A Bill to amend and reenact §47-19-3 of the Code of West Virginia, 1931, as amended, relating to excluding fentanyl test strips from the definition of drug paraphernalia; and specifying that fentanyl test strips are not prohibited under Chapter 60A of this code.

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 4439—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-J-6; and to amend and reenact §36-8-13 of said code, all relating generally to creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; establishing the account; declaring the purpose of the account; providing that the Adjutant General shall administer the account; authorizing the Adjutant General to invest moneys in the account; setting forth the permissible contents of the account; authorizing the Adjutant General to make certain expenditures from the account; requiring the Adjutant General to reimburse the account after receiving federal reimbursement moneys; providing that moneys in the account will revert to the Unclaimed Property Fund at the end of each fiscal year; and authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the account.

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, 2022, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4463—A Bill to amend and reenact §29-5A-1 and §29-5A-16 of the Code of West Virginia, 1931, as amended, all relating to the compensation the members of the State Athletic Commission may receive during a fiscal year for their attendance and participation in public meetings of the commission; and their work at exhibitions and matches sanctioned by the commission.

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 4467—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18d, relating to establishing a model project to provide early childhood classroom assistant teachers in certain grade levels and enrollment levels in said grade levels.

Referred to the Committee on Education; 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 4497—A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating to setting the regional jail per diem rate through July 1, 2023.

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 4565—A Bill to amend and reenact §5-10B-2 and §5-10B-3a of the Code of West Virginia, 1931, as amended; to amend §18-25-1 of said code; and to amend §18A-4-12 of said code; all relating generally to government employees deferred compensation plans; providing definitions; exempting certain employees from the requirement of automatic enrollment into certain plans; and removing outdated language to align with federal law.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2022, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4571—A Bill to amend and reenact §18-9A-7, of the Code of West Virginia, 1931, as amended, relating to including electric-powered school busses in the county foundation allowance; and increasing by 5% the allowance for school bus systems manufactured in the state of West Virginia.

Referred to the Committee on Education; 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 4580—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-15a, relating to reemployment of retired bus operators; providing for legislative findings; providing for definitions; explaining the purpose of the section; defining the framework for when these individuals may work as needed; and providing for an expiration date.

Referred to the Committee on Education; 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 4629—A Bill to amend and reenact § 55-17-3 of the Code of West Virginia, 1931, as amended, relating to actions against the State of West Virginia; authorizing the Attorney General or the chief officer of the subject government agency to issue a response to the potential claimant within 60 days of receipt of the notice to file suit; tolling the statute of limitations during pre-suit negotiations for actions against the state; providing that if pre-suit negotiations have not been concluded within six (6) months from the date of receipt of the notice of intent to file suit, then such pre-suit negotiations are deemed to be concluded; affording a 90 day time to file suit absent pretrial negotiations; providing an exemption from the 90 day time to file suit if the potential claimant is a minor; and dismissing claims absent suit filed within this 90 days.

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 4826—A Bill to amend and reenact §29-22D-3 of the Code of West Virginia, 1931, as amended relating to allowing wagering on e-sports events; providing definition of e-sports events; and including e-sports event in the definition of sports event or sporting event.

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 4842—A Bill to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to preparation, distribution, or exhibition of obscene matter to minors; and clarifying that the provisions of the section shall not apply to a certified law-enforcement officer or prosecuting attorney, or persons acting under the immediate direction of a certified law-enforcement officer or prosecuting attorney, certain court personnel, or attorneys representing an accused person, all while acting in the course of official duties.

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 4844—A Bill to amend and reenact §18-20-1c of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-10 and §18A-4-14 of said code, all relating to public school personnel; prohibiting regular classroom teachers and special education classroom teachers required to participate an individualized education program committee from being required to prepare or reduce to writing the individualized education program plan unless no other knowledgeable professional is available; increasing number of personal leave days an employee may use without regard to the cause for the absence; providing alternative conditions for authorized use of consecutive personal leave days without cause; and requiring state board rule providing uniform notice method and exchange process, prohibition on contact for certain purposes, agreement form and benefit amount regarding a teacher's voluntary exchange of duty-free lunch recess to perform duties at the school.

Referred to the Committee on Education; 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 4845—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-10-1, §18C-10-2, §18C-10-3, §18C-10-4, and §18C-10-5, 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.

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 4846—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17C-24-1, et. seq.; all relating to flying under the influence and other aviation offenses; prohibiting operation of aircraft while under the influence of alcohol, controlled substances, or drugs; defining terms; providing for implied consent to testing; preliminary analysis of breath to determine alcoholic content of blood; the administration of blood tests; interpretation of such tests; rights to demand testing; providing for fee for withdrawing a blood sample and making a urine test; forbidding careless or reckless operation of an aircraft; forbidding unauthorized taking of an aircraft; requiring federal licensure to operate an aircraft; providing criminal penalties; and requiring state officers to collaborate in enforcing aeronautics laws.

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 4847—A Bill to amend and reenact §15-3D-4, and §15-3D-5 of the Code of West Virginia, 1931, as amended, relating to missing persons generally; providing that missing persons information shall be furnished to West Virginia State Police; providing that persons aged over 75 years qualify as high risk persons; and, providing that an investigation shall start in all such instances as soon as the missing persons complaint is received.

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 4848—A Bill to repeal §60-3A-19 of the Code of West Virginia, 1931, as amended; to repeal §60-4-10 of said code; to repeal §60-7-17 of said code; to amend and reenact §11-16-6d, §11-16-6f, and §11-16-8 of said code; to amend said code by adding thereto a new section, designated §60-1-3a; to amend and reenact §60-3-22 of said code; to amend and reenact §60-3A-3a, §60-3A-3b, §60-3A-8, §60-3A-17, and §60-3A-19 of said code; to amend and reenact §60-4-22 and §60-4-23 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-8f, of said code; to amend said code by adding thereto a new section, designated §60-7-2a; to amend and reenact §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; removing limitations on the convenience fee; removing provisions requiring a scanned stored image of a driver's license or other legal identification; providing for other legal identification verification requirements; providing for removal of the 300 foot requirement under certain conditions; clarifying that persons convicted of certain crimes under certain conditions are not eligible for a license when applying for a nonintoxicating beer, nonintoxicating craft beer, or liquor license; clarifying that licensees are not required to place alcoholic liquors in a bag after purchase; streamlining certain sale requirements; altering the requirements relating to prior approval for a sampling event; revising to require prior notice before a tasting event; removing provisions relating to a five dollar cap on the convenience fee to deliver drinks containing liquor, wine, or nonintoxicating beer or nonintoxicating craft beer; increasing the minimum markup from 110 percent to 115 percent; removing unconstitutional provisions relating to a moratorium on exotic entertainment; revising the blood alcohol chart; creating a license for a private bakery to produce confections with alcohol added and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-

premises consumption, and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a private food truck to conduct food and alcohol sales at various locations when permitted by a municipality, and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resorts hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and over; authorizing licensed entities to hold a secondary license for purposes of events, fairs, and festivals; authorizing wine growler sales where wine may be mixed with ice and water to produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance hall for certain private clubs with an age verification system.

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 4849—A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, all relating to bankruptcy; correcting an erroneous terms; excluding life insurance proceeds paid to the debtor as a beneficiary, not to exceed \$100,000; excluding any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, not to exceed \$20,000 per year in value; and, excluding any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value, from attachment by creditors in a bankruptcy proceeding.

Referred to the Committee on the Judiciary.

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

Eng. House Joint Resolution 104—Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article VII thereof, relating to preventing any individual from serving in the office of Secretary of State, Auditor, State Treasurer, Commissioner of Agriculture, or Attorney General for more than three consecutive terms; 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.

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 3rd day of March, 2022, 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:

(S. B. 639), Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

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

Eng. Com. Sub. for House Bill 4406, To establish the West Virginia Military Hall of Fame.

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 Government Organization.

Respectfully submitted,

Ryan W. Weld,
Chair.

At the request of Senator Maynard, 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 Military.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4418, Relating to the Small Business Supplier Certification Assistance Program.

Eng. Com. Sub. for House Bill 4675, Relating to autonomous delivery vehicles.

And,

Eng. Com. Sub. for House Bill 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

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

Respectfully submitted,

Chandler Swope,
Chair.

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

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 4430, Relating to definitions of base salary and overtime for police and firemen 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,

Eric Nelson, Jr.,
Chair.

At the request of Senator Tarr, 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 Pensions.

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

Your Committee on Pensions has had under consideration

Eng. House Bill 4433, Providing that retirement benefits are not subject to execution.

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,

Eric Nelson, Jr.,
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

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

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

Your Committee on Pensions has had under consideration

Eng. House Bill 4462, Relating to Deferred Retirement Option Plan evaluations.

Now on second reading, having been read a first time and referred to the Committee on Pensions on February 24, 2022;

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,

Eric Nelson, Jr.,
Chair.

At the request of Senator Tarr, 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 Pensions.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

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,

Chandler Swope,
Chair.

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

Eng. House Bill 4578, Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4667, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

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,

Chandler Swope,
Chair.

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

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

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 Tarr, unanimous consent being granted, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

Having been reported from the Committee on Economic Development and, under the original double committee reference, referred to the Committee on Finance in earlier proceedings today,

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Engrossed Committee Substitute for House Bill 4479.

The Senate proceeded to the sixth order of business.

Senators Nelson and Takubo offered the following resolution:

Senate Resolution 48—Congratulating the George Washington High School Patriots girls' swim team for winning the 2022 State Championship.

Whereas, The George Washington High School Patriots girls' swim team had another outstanding year in the pool, which culminated in the team winning the 2022 State Championship; and

Whereas, The George Washington High School Patriots girls' swim team continued their domination in the pool, winning their

third consecutive state championship and seventh in the past 10 years; and

Whereas, The George Washington High School Patriots girls' swim team, coached by Lyn Wilcher, head coach, and Doug Price, assistant coach, consists of team members Caroline Bazzle, Lily Blake, Kara Edstrom, Ainsley Lewis, Emma Martin, Madilyn McGlothen, Morgan Reynolds, Olivia Ridenour, Maddie Schaefer, Kathryn St. Jean, Amelia Walko, Ashlee Wilcher, and Faith Wu; and

Whereas, Team members Madilyn McGlothen won the 500-yard freestyle and 200-yard IM, and Ashlee Wilcher won the 100-yard freestyle, and both girls were named to the WVSSAC All-Tournament Team; and

Whereas, The George Washington High School Patriots girls' swim team displayed their strong will and determination during the time of a health pandemic and is an outstanding example of what can be accomplished with dedication, commitment, and teamwork; and

Whereas, The George Washington High School Patriots girls' 2022 swim team will be remembered as one of the best teams ever assembled in West Virginia high school swimming history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots girls' swim team for winning the 2022 State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots girls' swim team.

Which, under the rules, lies over one day.

Senators Roberts, Stover, Blair (Mr. President), Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady,

Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum offered the following resolution:

Senate Resolution 49—Memorializing the life of the Honorable Naomi "Sue" Cline, wife, mother, realtor, former member of the West Virginia Senate, and dedicated public servant.

Whereas, The Honorable Naomi "Sue" Cline was born in Welch, West Virginia, on May 28, 1946, the daughter of the late Ralph Cook and Ora Short Cook; and

Whereas, The Honorable Naomi "Sue" Cline was a lifelong resident of Wyoming County and made her home in Brenton, West Virginia; and

Whereas, The Honorable Naomi "Sue" Cline was a realtor for more than 20 years and was a member of the West Virginia State Realtors Association; and

Whereas, The Honorable Naomi "Sue" Cline was a member of the West Virginia Senate, where she represented the citizens of the 9th Senatorial District from 2016 to 2020; and

Whereas, During her tenure as a member of the West Virginia Senate, the Honorable Naomi "Sue" Cline served as Chair of the Committee on Interstate Cooperation and a member of the Committees on Agriculture and Rural Development, Economic Development, Education, Energy, Industry, and Mining, the Judiciary, Military, and Natural Resources; and

Whereas, The Honorable Naomi "Sue" Cline was a devout Christian and a faithful member of Brenton Baptist Church; and

Whereas, Sadly, the Honorable Naomi "Sue" Cline passed away at the age of 75 on December 29, 2021, bringing an end to a life devoted to faith, family, and public service, and leaving behind a host of family and friends, all of whom will miss her dearly; and

Whereas, It is fitting that we pay tribute to the life and legacy of the Honorable Naomi "Sue" Cline, a proud native daughter of southern West Virginia and a fierce fighter and advocate for the people of Wyoming and Raleigh Counties; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of the Honorable Naomi "Sue" Cline, wife, mother, realtor, former member of the West Virginia Senate, and dedicated public servant; and, be it

Further Resolved, That the Senate extends its sincere condolences to the family of the Honorable Naomi "Sue" Cline on her passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable Naomi "Sue" Cline.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 49, Establishing Honor Guard in each National Guard unit.

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 Resolution 47, Memorializing life of Honorable Joseph Michael Minard.

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

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

The question being on the adoption of the resolution, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 47) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Romano, Stollings, Caputo, and Plymale regarding the adoption of Senate Resolution 47 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, at 12:06 p.m., the Senate recessed to present Senate Resolution 47.

The Senate reconvened at 12:09 p.m. and resumed business under the seventh order.

House Concurrent Resolution 23, Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

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

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 250, Budget Bill.

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 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

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

Engrossed Senate Bill 715 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 715) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 715) takes effect from passage.

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

Senate Bill 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The yeas were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 716 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The yeas were: None.

Absent: Beach and Stover—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. 716) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 716) takes effect from passage.

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

Senate Bill 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 717 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 717) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 717) takes effect from passage.

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

Senate Bill 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The yeas were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 718 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The yeas were: None.

Absent: Beach and Stover—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. 718) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 718) takes effect from passage.

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

Senate Bill 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 719 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 719) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 719) takes effect from passage.

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

Senate Bill 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 720 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 720) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 720) takes effect from passage.

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

Senate Bill 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 722 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 722) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 722) takes effect from passage.

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

Senate Bill 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 723 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 723) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 723) takes effect from passage.

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

Senate Bill 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 724 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 724) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 724) takes effect from passage.

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

Senate Bill 725, Supplementing and amending appropriations to DHS, WV State Police.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

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

Engrossed Senate Bill 725 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 725) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—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. 725) takes effect from passage.

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

Eng. House Bill 2817, Donated Drug Repository Program.

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

Eng. Com. Sub. for House Bill 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

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

Eng. Com. Sub. for House Bill 4282, Relating to establishing next generation 911 services in this state.

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

Eng. House Bill 4286, Relating to exempting persons employed as attorneys from the civil service system.

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

Eng. House Bill 4291, Relating to authorizing legislative rules regarding higher education.

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

Eng. Com. Sub. for House Bill 4324, To update collaborative pharmacy practice agreements.

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

Eng. Com. Sub. for House Bill 4345, Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

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

Eng. Com. Sub. for House Bill 4380, Relating to transportation of athletic teams.

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

Eng. Com. Sub. for House Bill 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

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

Eng. Com. Sub. for House Bill 4489, Require counties to post open positions on statewide job bank.

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

Eng. House Bill 4517, Relating to the repealing requirements to display video ratings.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

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

Eng. Com. Sub. for House Bill 4631, Establishing a bone marrow and peripheral blood stem donation awareness program.

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

Eng. House Bill 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

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

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:42 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:05 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 4048), WV Keep, Bear and Drive with Arms Act.

(H. B. 4299), To prohibit the intentional interference with election processes and creating associated criminal penalties.

(H. B. 4308), Authorizing disclosure of juvenile information to Crime Victims Compensation Fund for investigation and award of benefits.

(H. B. 4312), Extending the option of electronic absentee ballot transmission to first responders in certain emergency circumstances.

And,

(Com. Sub. for H. B. 4369), Update the telepsychology compact.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
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 Concurrent Resolution 2, John B. Short Memorial Bridge.

Senate Concurrent Resolution 7, James "Big Jim" Shaffer Memorial Bridge.

Senate Concurrent Resolution 8, US Army SGT Charles L. Toppings Memorial Road.

Senate Concurrent Resolution 12, Raymond Jarrell, Jr., Memorial Road.

Senate Concurrent Resolution 16, William Gregory "Greg" White, P.E., Memorial Bridge.

Senate Concurrent Resolution 18, US Army SSGT Fred E. Duty Memorial Highway.

Senate Concurrent Resolution 20, US Air Force LT COL Robert J. Hill Memorial Road.

Senate Concurrent Resolution 24, USMC CPL Roger Lee Boothe Memorial Road.

Senate Concurrent Resolution 25, Firefighter Marvin Layton Hughes Memorial Bridge.

Senate Concurrent Resolution 30, McClintic Family Bridge.

Senate Concurrent Resolution 31, US Navy HM3 Roy Elmer "Doody" Moon Bridge.

Senate Concurrent Resolution 32, Curtis "Pap" and Millie "Mammie" Asbury Memorial Bridge.

Senate Concurrent Resolution 33, US Army SGT Lewis M. "Mike" Totten Memorial Road.

Senate Concurrent Resolution 35, Ira "Noon" Copley and Marie Copley Memorial Bridge.

Senate Concurrent Resolution 39, Walker Brothers' Veteran Memorial Bridge.

Senate Concurrent Resolution 40, Frye Brothers' Memorial Bridge.

Senate Concurrent Resolution 41, Henry Preston Hickman Memorial Bridge.

Senate Concurrent Resolution 42, USMC SSGT Herbert "Herbie" D. Barnes Veteran Memorial Bridge.

Senate Concurrent Resolution 43, US Navy S1 Paul McCue Bridge.

Senate Concurrent Resolution 47, Fire Chief Lee Thomas Memorial Bridge.

Senate Concurrent Resolution 50, US Army CPL John William (J.W.) Cruse Jr. Memorial Bridge.

Senate Concurrent Resolution 51, Deputy Kenneth "Kenny" Ward Love, Sheriff Elvin Eugene "Pete" Wedge, and Jailer Ernest Ray "Ernie" Hesson Memorial Bridge.

House Concurrent Resolution 1, Alex Perdue Memorial Bridge.

House Concurrent Resolution 4, John B. Short Memorial Bridge.

House Concurrent Resolution 6, Elmer Galford Memorial Road.

House Concurrent Resolution 7, Daniel Edward Kolhton "Red" Haney Memorial Bridge.

House Concurrent Resolution 8, U.S. Army Private Elmo Davis Memorial Road.

House Concurrent Resolution 9, U.S. Army SSG James C. Vickers Silver Star Highway.

House Concurrent Resolution 10, Lance CPL Leonard Joe Zelaski Memorial Bridge.

House Concurrent Resolution 13, The Doctor Enrique Aguilar Memorial Bridge.

House Concurrent Resolution 14, Colonel Ronald John "Ron" Chiccehitto Memorial Road.

House Concurrent Resolution 17, Daniel Okey Cunningham Memorial Bridge.

House Concurrent Resolution 25, SP5 Terry Lee McClanahan Memorial Bridge.

House Concurrent Resolution 26, Charleston Police Officer Cassie Johnson - Fallen Heroes Memorial Bridge.

House Concurrent Resolution 35, David Allen Drake, Sr. Memorial Bridge.

House Concurrent Resolution 36, John Calvin "J.C." Baker Memorial Bridge.

House Concurrent Resolution 38, "Dale Shaheen and George H. Hooker Memorial Bridge."

House Concurrent Resolution 48, WVSP Sergeant John S. Syner Memorial Road.

House Concurrent Resolution 49, Charles M. "Charlie" Biggs Memorial Highway.

House Concurrent Resolution 50, John Ellison Road.

House Concurrent Resolution 52, U.S. Army SGT Roy E. Givens Memorial Road.

House Concurrent Resolution 54, Mayor George Karos Bridge.

House Concurrent Resolution 60, Fire Chief Lee Thomas Bridge.

House Concurrent Resolution 61, Timothy Wayne Farley Memorial Bridge.

House Concurrent Resolution 62, Raymond Jarrell, Jr., Memorial Road.

House Concurrent Resolution 64, Robin W. Ames Memorial Road.

House Concurrent Resolution 70, Calvin H. Shifflett Memorial Bridge.

House Concurrent Resolution 71, White Angel Falls waterfall.

House Concurrent Resolution 74, Judge Les Fury Memorial Bridge.

House Concurrent Resolution 75, Pastor Glenn F. Lough Memorial Bridge.

House Concurrent Resolution 82, Alleen Ledson Memorial Bridge.

House Concurrent Resolution 83, U.S. Army SGT Charles L. Toppings Memorial Road.

House Concurrent Resolution 84, U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard.

House Concurrent Resolution 85, McClintic Family Bridge.

House Concurrent Resolution 87, Joseph Allen Wyatt, Fire Chief of Cowen VFD Memorial Intersection.

And,

House Concurrent Resolution 88, Lewis Joseph D'Antoni Memorial Road.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 2, 7, 8, 12, 16, 18, 20, 24, 25, 30, 31, 32, 33, 35, 39, 40, 41, 42, 43, 47, 50, and 51 and H. C. R. 1, 4, 6, 7, 8, 9, 10, 13, 14, 17, 25, 26, 35, 36, 38, 48, 49, 50, 52, 54, 60, 61, 62, 64, 70, 71, 74, 75, 82, 83, 84, 85, 87, and 88) contained in

the preceding report from the Committee on Transportation and Infrastructure were then referred to the Committee on Rules.

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 Army SP4 Warner Ray Osborne Memorial Bridge.

Senate Concurrent Resolution 10, US Air Force TSGT Franklin A. Bradford Bridge.

Senate Concurrent Resolution 14, US Army SSGT Elson M Kuhn Memorial Bridge.

Senate Concurrent Resolution 19, US Army PVT Thomas D. Beckett, Sr., Memorial Bridge.

Senate Concurrent Resolution 22, US Army PFC Clifford O. Eckard Memorial Bridge.

Senate Concurrent Resolution 26, US Army TEC5 William "Bill" Thurman King Memorial Bridge.

Senate Concurrent Resolution 36, USMC CPL Harry Edward Dean, Jr., Memorial Bridge.

Senate Concurrent Resolution 48, US Army PFC Ronald Lee Berry Memorial Bridge.

House Concurrent Resolution 15, Thomas Brothers Memorial Bridge.

House Concurrent Resolution 16, World War II Veterans Toothman Brothers Memorial Bridge.

House Concurrent Resolution 34, U.S. Navy Seaman 1st Class Byrne Lee Singleton Memorial Bridge.

House Concurrent Resolution 37, U.S. Army Corporal Charles William "Bill" Knight Memorial Bridge.

House Concurrent Resolution 40, USMC Cpl Guy Maywood Edwards Memorial Bridge.

House Concurrent Resolution 45, U.S. Army SP4 Dennis Harvey Roberts Memorial Bridge.

House Concurrent Resolution 46, U.S. Navy Seaman Donald Homer Wheeler Memorial Bridge.

House Concurrent Resolution 47, U.S. Army CPL Billy Earl Duty Memorial Bridge.

House Concurrent Resolution 63, U.S. Army MSGT Donald Lewis Coen Memorial Bridge.

House Concurrent Resolution 65, U.S. Army Major Jesse A. Jennings Memorial Bridge.

House Concurrent Resolution 72, U.S. Army SP5 Dana V. Perkins Memorial Bridge.

House Concurrent Resolution 73, Halstead Brothers WWII Veterans Memorial Bridge.

House Concurrent Resolution 76, U. S. Navy BM1 Farris Burton Memorial Bridge.

And,

House Concurrent Resolution 81, U.S. Army Chief Warrant Officer Milford Arnold Cunningham Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 4, 10, 14, 19, 22, 26, 36, and 48 and H. C. R. 15, 16, 34, 37, 40, 45, 46, 47, 63, 65, 72, 73, 76, and 81) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

Senator Maynard, 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 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

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

Respectfully submitted,

Mark R. Maynard,
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

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

And has amended same.

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

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

Eng. Com. Sub. for House Bill 4008, Relating to Higher Education Policy Commission funding formula.

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,

Patricia Puertas Rucker,
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

Eng. House Bill 4019, Relating to deadlines for public charter schools.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maynard, 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 4295, To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

With amendments from the Committee on Banking and Insurance pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Government Organization.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4420, To modify definitions of school bus operators.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maynard, 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 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
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

Eng. House Bill 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

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

Respectfully submitted,

Randy E. Smith,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4769, Eliminate the requirement to send recommended decisions by certified mail.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Karnes.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 5:14 p.m., the Senate adjourned until tomorrow, Friday, March 4, 2022, at 9 a.m.

FRIDAY, MARCH 4, 2022

The Senate met at 9:02 a.m.

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

Prayer was offered by the Honorable Hannah N. Geffert, a senator from the sixteenth district.

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 Thursday, March 3, 2022,

At the request of Senator Martin, 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:

Natural Resources, Division of (§20-1-7)

Tourism, Department of (§5B-2I-4)

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2096, Reinstating the film investment tax credit.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
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 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

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.

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

Eng. Com. Sub. for House Bill 4113, Public Health definitions and powers of secretary and commissioner.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4257, Require visitation immediately following a procedure in a health care facility.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
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 4297, To facilitate the sharing of information between the Department of Health and Human Resources and the State Auditor's office in order to investigate reports of financial abuse and neglect of a vulnerable adult.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4344, Relating to foster care.

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 J. Maroney,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Health and Human Resources pending.

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

Your Committee on Finance has had under consideration

Eng. House Bill 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

Eng. House Bill 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

Eng. Com. Sub. for House Bill 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

Eng. Com. Sub. for House Bill 4461, Relating to the consolidation of all administrative fees collected by the agency into the existing "Tax Administration Services Fund".

And,

Eng. Com. Sub. for House Bill 4484, Declaring certain claims against agencies of the state to be moral obligations of the state.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4567, Relating to business and occupation or privilege tax.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
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:

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 731—A Bill making a supplementary appropriation of federal funds out of the State Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Tourism – Tourism Workforce Development Fund, fund 8903, fiscal year 2022, organization 0304, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 732—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Hospital Finance Authority – Hospital Finance Authority Fund, fund 5475, fiscal year 2022, organization 0509, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 733—A Bill supplementing and amending appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation and adding a new item of appropriation to the Executive, Governor's Office, fund 0101, fiscal year 2022, organization 0100, by supplementing and amending appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

Senator Lindsay offered the following resolution:

Senate Resolution 50—Designating March 7, 2022, as West Virginia Library Day at the Legislature.

Whereas, West Virginia libraries are dedicated to assisting each citizen and building community connections by being accessible and inclusive to all; and

Whereas, West Virginia libraries provide resources to over one million registered borrowers throughout the state, who on the average, checkout two items per person annually; and

Whereas, West Virginia libraries work tirelessly to meet the changing needs of their communities, providing materials from a variety of viewpoints in a wide range of formats that enables the sharing of materials among libraries. West Virginia libraries work

to deliver technology through internet access to nearly 450,000 West Virginians, and Wi-Fi access to another 160,000; and

Whereas, During the pandemic West Virginia libraries and library professionals played an invaluable role in support to their communities in-person and virtually; and

Whereas, West Virginia libraries have nearly 11.5 million pieces of material available for citizens to borrow; and

Whereas, West Virginia libraries offer opportunities for everyone to connect with new ideas and become their best selves with access to multimedia content, programs, and classes in addition to books; and

Whereas, West Virginia libraries have long served as trusted and treasured institutions for all members of the communities regardless of race, ethnicity, creed, ability, sexual or gender identity, or socio-economic status; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 7, 2022, as West Virginia Library 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 for West Virginia Library Day.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Resolution 48, Congratulating George Washington High School Patriots girls' swim team for winning 2022 State Championship.

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

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

Senate Resolution 49, Memorializing Honorable Naomi "Sue" Cline, wife, mother, realtor, former member of WV Senate, and dedicated public servant.

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

At the request of Senator Roberts, 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 Phillips demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Romano and Stover—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 49) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Roberts, Maynard, Boley, Weld, and Smith regarding the adoption of Senate Resolution 49 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 250, Budget Bill.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Romano and Stover—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. 250) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Romano and Stover—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. 250) 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.

Eng. House Bill 2817, Donated Drug Repository Program.

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

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

On page nine, section six, after line fifty-one, by adding thereto two new subsections, designated subsections (p) and (q), to read as follows:

(p) When complying with the provisions of this article and the rules and regulations adopted pursuant to this article, unless an action or omission constitutes willful or wanton misconduct, the following persons or entities shall not be subject to criminal or civil prosecution, criminal or civil liability for injury, death, or loss to person or property, other criminal or civil action, or disciplinary actions by licensing, professional, or regulatory agencies:

(1) A person that donates or gives drugs to an eligible recipient, including a drug wholesaler, reverse distributor pharmacy, third-party logistics provider, government entity, hospital, or health care facility;

(2) An eligible recipient;

(3) A health care professional who prescribes or dispenses a donated drug;

(4) The Board of Pharmacy;

(5) An intermediary that helps administer the program by facilitating the donation or transfer of drugs to eligible recipients;

(6) A manufacturer or repackager of a donated drug; and

(7) Any employee, volunteer, trainee, or other staff of individuals and entities listed in subdivisions (1) through (6).

(q) An entity participating in a drug donation or repository program operated by another state may participate in this program, and in the case of a pharmacy, may dispense donated drugs to

residents of this state. This entity is required to comply with all laws and rules in this state unless such laws or rules differ or conflict with the laws or rules of the state in which the entity is located.

The bill (Eng. H. B. 2817), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

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

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

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

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-8a. Hunter safety orientation program.

(a) The Legislature finds that:

(1) Firearms and hunting are important parts of West Virginia's history, culture, and economy;

(2) Unfortunately, the use of firearms while hunting or at any other time can be dangerous when the firearms are not handled in a careful and safe manner; and

(3) Therefore, the opportunity of participating in a hunter safety orientation program should be offered to students in certain grades.

(b) The State Board of Education shall establish and implement a program of instruction of hunter safety orientation with appropriate classes and hands-on training. The hunter safety orientation program may be scheduled for the regular hours of the school day, so as to work in conjunction with the regular course

schedule, or may be scheduled outside of the regular hours of instruction for the school day, if the resources and student interest allow. To the extent possible, the hunter safety orientation program shall be conducted at school facilities and scheduled so that students attending the program class may also make use of regularly provided student transportation.

~~(b)~~ (c) The State Board of Education shall, with the advice of the state Superintendent of Schools and the Director of the Division of Natural Resources, promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code for the implementation of a hunter safety orientation program for use in the public schools of this state. The rule shall, at a minimum, include ~~at least~~ the following provisions:

(1) ~~The hunter safety orientation program may be offered to students in any of the grade levels sixth through twelfth grades over a two week period during the school year as part of physical education classes, or as part of the general curriculum offered to students in any of these grade levels, or at the end of the school day~~ The hunter safety orientation program shall be offered at least once every spring semester in every middle school of the state. At the option of each county board of education, the hunter safety orientation program may also be offered during the fall semester in any middle school in the state or may be offered in any high school in the state: *Provided,* That the demand to take the hunter safety orientation program is sufficient and that certified instructors are available. If there is an insufficient number of students at a middle school requesting or registering for the class in a given semester, the school shall not be required to conduct the class that semester. The county board of education shall have the discretion to establish the minimum number of students requesting the safety orientation program class in a semester necessary to provide the class that semester.

(2) ~~The hunter safety orientation program is voluntary to students and any student may choose not to participate in the program. If a student chooses not to participate in the program, he or she shall participate in another education activity;~~

(3) The hunter safety orientation program shall include instruction relating to:

(A) The protection of lives and property against loss or damage as a result of the improper use of firearms; and

(B) The proper use of firearms in hunting, sport competition, and the care and safety of firearms in the home;

(4) The hunter safety orientation program may use materials prepared by any national nonprofit membership organization which has as one of its purposes the training of people in marksmanship and the safe handling and use of firearms; and

(5) The hunter safety orientation program shall be conducted by an instructor employed or certified by the Division of Natural Resources or who has other training necessary to conduct the program as determined by the state board.

~~(c) The county superintendent may implement the hunter safety orientation program in accordance with the rule required by this section in each school in the county that includes any of grades 6 through twelve at which, in the sole judgement of the superintendent, sufficient student interest in program enrollment justifies the program offering and an appropriately certified instructor is available~~

(d) The Division of Natural Resources shall issue a certificate of training, required by §20-2-30a of this code, to any student who completes the hunter safety orientation program.

The bill (Eng. Com. Sub. for H. B. 4065), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4282, Relating to establishing next generation 911 services in this state.

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

Eng. House Bill 4286, Relating to exempting persons employed as attorneys from the civil service system.

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

Eng. House Bill 4291, Relating to authorizing legislative rules regarding higher education.

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

Eng. Com. Sub. for House Bill 4324, To update collaborative pharmacy practice agreements.

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

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

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

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS,
PHARMACY INTERNS AND PHARMACIES.**

§30-5-4. Definitions.

As used in this article:

(1) "Ambulatory health care facility" includes any facility defined in ~~section one, article five b, chapter sixteen~~ §16-5B-1 *et seq.* of this code, that also has a pharmacy, offers pharmacist care, or is otherwise engaged in the practice of pharmacist care.

(2) "Active Ingredients" means chemicals, substances, or other components of articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals or for use as nutritional supplements.

(3) "Administer" means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or any other means.

(4) "Board" means the West Virginia Board of Pharmacy.

(5) "Board authorization" means a license, registration, or permit issued under this article.

(6) "Chain Pharmacy Warehouse" means a permanent physical location for drugs ~~and~~ or devices that acts as a central warehouse and performs intracompany sales and transfers of prescription drugs or devices to chain pharmacies, which are members of the same affiliated group, under common ownership and control.

(7) "Charitable clinic pharmacy" means a clinic or facility organized as a not-for-profit corporation that has a pharmacy, offers pharmacist care, or is otherwise engaged in the practice of pharmacist care and dispenses its prescriptions free of charge to appropriately screened and qualified indigent patients.

(8) "Collaborative pharmacy practice" is that practice of pharmacist care where one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more physicians under written protocol where the pharmacist or pharmacists may perform certain patient care functions authorized by the physician or physicians under certain specified conditions and limitations.

(9) "Collaborative pharmacy practice agreement" is a written and signed agreement, which is a physician directed approach, that is entered into between an individual physician or physician group, or for a medical provider in training where the agreement is signed by the supervising physician or chairperson of the medical department where the medical provider in training is practicing, and an individual pharmacist or pharmacists ~~and an individual patient or the patient's authorized representative who has given informed consent~~ that provides for collaborative pharmacy practice for the purpose of drug therapy management of a patient, ~~which has been approved by the board, the Board of Medicine in the case of~~

~~an allopathic physician or the West Virginia Board of Osteopathic Medicine in the case of an osteopathic physician.~~

~~(10)~~ "Common Carrier" means any person or entity who undertakes, whether directly or by any other arrangement, to transport property including prescription drugs for compensation.

~~(11)~~ "Component" means any active ingredient or added substance intended for use in the compounding of a drug product, including those that may not appear in such product.

~~(12)~~ "Compounding" means:

(A) The preparation, mixing, assembling, packaging, or labeling of a drug or device:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice for sale or dispensing; or

(ii) For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; and

(B) The preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

~~(13)~~ "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

~~(14)~~ "Device" means an instrument, apparatus, implement or machine, contrivance, implant or other similar or related article, including any component part or accessory, which is required under federal law to bear the label, "Caution: Federal or state law requires dispensing by or on the order of a physician."

~~(15)~~ "Digital Signature" means an electronic signature based upon cryptographic methods of originator authentication, and computed by using a set of rules and a set of parameters so that the identity of the signer and the integrity of the data can be verified.

~~(16)~~ "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation, verification, and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

~~(17)~~ "Distribute" or "Distribution" means to sell, offer to sell, deliver, offer to deliver, broker, give away, or transfer a drug, whether by passage of title, physical movement, or both. The term does not include:

(A) To dispense or administer;

(B) (i) Delivering or offering to deliver a drug by a common carrier in the usual course of business as a common carrier; or providing a drug sample to a patient by a practitioner licensed to prescribe such drug;

(ii) A health care professional acting at the direction and under the supervision of a practitioner; or the pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample in accordance with the Prescription Drug Marketing Act and regulations to administer or dispense;

(iii) Intracompany sales.

~~(18)~~ "Drop shipment" means the sale of a prescription drug to a wholesale distributor by the manufacturer of the prescription drug or by that manufacturer's colicensed product partner, that manufacturer's third-party logistics provider, that manufacturer's exclusive distributor, or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities whereby:

(A) The wholesale distributor takes title to but not physical possession of such prescription drug;

(B) The wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug; and

(C) The pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer or from that manufacturer's colicensed product partner, that manufacturer's third-party logistics provider, that manufacturer's exclusive distributor, or from an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities.

~~(19)~~ "Drug" means:

(A) Articles recognized as drugs by the United States Food and Drug Administration, or in any official compendium, or supplement;

(B) An article, designated by the board, for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(C) Articles, other than food, intended to affect the structure or any function of the body of human or other animals; and

(D) Articles intended for use as a component of any articles specified in paragraph (A), (B), or (C) of this subdivision.

~~(20)~~ "Drug regimen review" includes, but is not limited to, the following activities:

(A) Evaluation of the prescription drug orders and if available, patient records for:

(i) Known allergies;

(ii) Rational therapy-contraindications;

(iii) Reasonable dose and route of administration; and

(iv) Reasonable directions for use.

(B) Evaluation of the prescription drug orders and patient records for duplication of therapy.

(C) Evaluation of the prescription drug for interactions ~~and/or~~ adverse effects which may include, but are not limited to, any of the following:

- (i) Drug-drug;
- (ii) Drug-food;
- (iii) Drug-disease; and
- (iv) Adverse drug reactions.

(D) Evaluation of the prescription drug orders and if available, patient records for proper use, including overuse and underuse and optimum therapeutic outcomes.

~~(21)~~ "Drug therapy management" means the review of drug therapy regimens of patients by a pharmacist for the purpose of evaluating and rendering advice to a physician regarding adjustment of the regimen in accordance with the collaborative pharmacy practice agreement. Decisions involving drug therapy management shall be made in the best interest of the patient. Drug therapy management is limited to:

(A) Implementing, modifying, and managing drug therapy according to the terms of the collaborative pharmacy practice agreement;

(B) Collecting and reviewing patient histories;

~~(C) Obtaining and checking vital signs, including pulse, temperature, blood pressure and respiration~~ Performing patient evaluations that are mutually agreed upon in the collaborative agreement;

(D) Ordering screening laboratory tests that are dose related and specific to the patient's medication or are protocol driven and are also specifically set out in the collaborative pharmacy practice agreement between the pharmacist and physician.

~~(22)~~ "Electronic data intermediary" means an entity that provides the infrastructure to connect a computer system, hand-held electronic device, or other electronic device used by a prescribing practitioner with a computer system or other electronic device used by a pharmacy to facilitate the secure transmission of:

- (A) An electronic prescription order;
- (B) A refill authorization request;
- (C) A communication; or
- (D) Other patient care information.

~~(23)~~ "E-prescribing" means the transmission, using electronic media, of prescription or prescription-related information between a practitioner, pharmacist, pharmacy benefit manager, or health plan as defined in 45 CFR §160.103, either directly or through an electronic data intermediary. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the pharmacist. E-prescribing may also be referenced by the terms "electronic prescription" or "electronic order".

~~(24)~~ "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~(25)~~ "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

~~(26)~~ "Emergency medical reasons" include, but are not limited to, transfers of a prescription drug by one pharmacy to another pharmacy to alleviate a temporary shortage of a prescription drug; sales to nearby emergency medical services, i.e., ambulance companies and firefighting organizations in the same state or same marketing or service area, or nearby licensed practitioners of prescription drugs for use in the treatment of acutely ill or injured persons; and provision of minimal emergency supplies of prescription drugs to nearby nursing homes for use in emergencies

or during hours of the day when necessary prescription drugs cannot be obtained.

~~(27)~~ "Exclusive distributor" means an entity that:

(A) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; and

(B) Is licensed as a wholesale distributor under this article.

~~(28)~~ "FDA" means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services.

~~(29)~~ "Health care entity" means a person that provides diagnostic, medical, pharmacist care, surgical, dental treatment, or rehabilitative care but does not include a wholesale distributor.

~~(30)~~ "Health information" means any information, whether oral or recorded in a form or medium, that:

(A) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse, and

(B) Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual.

"Health care system" means an organization of people, institutions, and resources that deliver health care services to meet the health needs of a target population.

~~(31)~~ "HIPAA" is the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

~~(32)~~ "Immediate container" means a container and does not include package liners.

(33) "Individually identifiable health information" is information that is a subset of health information, including demographic information collected from an individual and is created or received by a health care provider, health plan, employer, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

(34) "Intracompany sales" means any transaction between a division, subsidiary, parent, ~~and~~ or affiliated or related company under the common ownership and control of a corporate or other legal business entity.

(35) "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug or device.

(36) "Labeling" means the process of preparing and affixing a label to a drug container exclusive, however, of a labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged prescription drug or device.

(37) "Long-Term care facility" means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients.

(38) "Mail-order pharmacy" means a pharmacy, regardless of its location, which dispenses greater than ~~twenty-five~~ 25 percent of its prescription drugs via the mail or other delivery services.

(39) "Manufacturer" means any person who is engaged in manufacturing, preparing, propagating, processing, packaging, repackaging, or labeling of a prescription drug, whether within or outside this state.

(40) "Manufacturing" means the production, preparation, propagation, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or

independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substance or substances or labeling or relabeling of its contents and the promotion and marketing of the drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

~~(41)~~ "Medical order" means a lawful order of a practitioner that may or may not include a prescription drug order.

~~(42)~~ "Medication therapy management" is a distinct service or group of services that optimize medication therapeutic outcomes for individual patients. Medication therapy management services are independent of, but can occur in conjunction with, the provision of a medication or a medical device. Medication therapy management encompasses a broad range of professional activities and responsibilities within the licensed pharmacist's scope of practice.

These services may include the following, according to the individual needs of the patient:

(A) Performing or obtaining necessary assessments of the patient's health status pertinent to medication therapy management;

(B) Optimize medication use, performing medication therapy, and formulating recommendations for patient medication care plans;

(C) Developing therapeutic recommendations, to resolve medication related problems;

(D) Monitoring and evaluating the patient's response to medication therapy, including safety and effectiveness;

(E) Performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(F) Documenting the care delivered and communicating essential information to the patient's primary care providers;

(G) Providing verbal education and training designed to enhance patient understanding and appropriate use of his or her medications;

(H) Providing information, support services, and resources designed to enhance patient adherence with his or her medication therapeutic regimens;

(I) Coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient; and

(J) Such other patient care services as may be allowed by law.

~~(43)~~ "Misbranded" means a drug or device that has a label that is false or misleading in any particular manner; or the label does not bear the name and address of the manufacturer, packer, or distributor and does not have an accurate statement of the quantities of the active ingredients in the case of a drug; or the label does not show an accurate monograph for prescription drugs.

~~(44)~~ "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of this state and the federal government.

~~(45)~~ "Normal distribution channel" means a chain of custody for a prescription drug that goes directly or by drop shipment, from a manufacturer of the prescription drug, the manufacturer's third-party logistics provider, or the manufacturer's exclusive distributor to:

(A) A wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(B) A wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a

patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(C) A chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(D) A pharmacy or to other designated persons authorized by law to dispense or administer such prescription drug to a patient; or

(E) As prescribed by the board's legislative rules.

~~(46)~~ "Patient counseling" means the communication by the pharmacist of information, as prescribed further in the rules of the board, to the patient to improve therapy by aiding in the proper use of drugs and devices.

~~(47)~~ "Pedigree" means a statement or record in a written form or electronic form, approved by the board, that records each wholesale distribution of any given prescription drug (excluding veterinary prescription drugs), which leaves the normal distribution channel.

~~(48)~~ "Person" means an individual, corporation, partnership, association, or any other legal entity, including government.

~~(49)~~ "Pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacist care.

~~(50)~~ "Pharmacist Care" means the provision by a pharmacist of patient care activities, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination, or reduction of a patient's symptoms, or arresting or slowing of a disease process and as provided for in section ten.

~~(51)~~ "Pharmacist-in-charge" means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and legislative rules

pertinent to the practice of pharmacist care and the distribution of drugs and who is personally in full charge of the pharmacy and pharmacy personnel.

~~(52)~~ "Pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement" means those duties and limitations of duties placed upon the pharmacist by the collaborating physician, ~~as jointly approved by the board and the Board of Medicine or the West Virginia Board of Osteopathic Medicine.~~

~~(53)~~ "Pharmacy" means any place within this state where drugs are dispensed and pharmacist care is provided and any place outside of this state where drugs are dispensed and pharmacist care is provided to residents of this state.

~~(54)~~ "Pharmacy Intern" or "Intern" means an individual who is currently licensed to engage in the practice of pharmacist care while under the supervision of a pharmacist.

~~(55)~~ "Pharmacy related primary care" means the pharmacist's activities in patient education, health promotion, selection and use of over the counter drugs and appliances and referral or assistance with the prevention and treatment of health related issues and diseases.

~~(56)~~ "Pharmacy Technician" means a person registered with the board to practice certain tasks related to the practice of pharmacist care as permitted by the board.

~~(57)~~ "Physician" means an individual currently licensed, in good standing and without restrictions, as an allopathic physician by the West Virginia Board of Medicine or an osteopathic physician by the West Virginia Board of Osteopathic Medicine.

"Practice notification" means a written notice to the appropriate licensing board that an individual physician or physician group or a medical provider in training where the agreement is signed by the supervising physician or chairperson of the medical department where the medical provider in training is practicing, and an individual pharmacist or pharmacists will practice in collaboration.

(58) "Practice of telepharmacy" means the provision of pharmacist care by properly licensed pharmacists located within United States jurisdictions through the use of telecommunications or other technologies to patients or their agents at a different location that are located within United States jurisdictions.

(59) "Practitioner" means an individual authorized by a jurisdiction of the United States to prescribe drugs in the course of professional practices, as allowed by law.

(60) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by prescription, including finished dosage forms and active ingredients subject to section 503(b) of the federal Food, Drug and Cosmetic Act.

(61) "Prescription or prescription drug order" means a lawful order from a practitioner for a drug or device for a specific patient, including orders derived from collaborative pharmacy practice, where a valid patient-practitioner relationship exists, that is communicated to a pharmacist in a pharmacy.

(62) "Product Labeling" means all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers, or accompanying such article.

(63) "Repackage" means changing the container, wrapper, quantity, or product labeling of a drug or device to further the distribution of the drug or device.

(64) "Repackager" means a person who repackages.

(65) "Therapeutic equivalence" mean drug products classified as therapeutically equivalent can be substituted with the full expectation that the substituted product will produce the same clinical effect and safety profile as the prescribed product which contain the same active ingredient(s); dosage form and route of administration; and strength.

(66) "Third-party logistics provider" means a person who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of

a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. A third-party logistics provider shall be licensed as a wholesale distributor under this article and, in order to be considered part of the normal distribution channel, shall also be an authorized distributor of record.

~~(67)~~ "Valid patient-practitioner relationship" means the following have been established:

(A) A patient has a medical complaint;

(B) A medical history has been taken;

(C) A face-to-face physical examination adequate to establish the medical complaint has been performed by the prescribing practitioner or in the instances of telemedicine through telemedicine practice approved by the appropriate practitioner board; and

(D) Some logical connection exists between the medical complaint, the medical history, and the physical examination and the drug prescribed.

~~(68)~~ "Wholesale distribution" and "wholesale distributions" mean distribution of prescription drugs, including directly or through the use of a third-party logistics provider or any other situation in which title, ownership, or control over the prescription drug remains with one person or entity but the prescription drug is brought into this state by another person or entity on his, her, or its behalf, to persons other than a consumer or patient, but does not include:

(A) Intracompany sales, as defined in ~~subdivision thirty four of this subsection~~;

(B) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(C) The sale, purchase, or trade of a drug or an offer to sell, purchase or trade a drug by a charitable organization described in section 501(c)(3) of the United States Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(D) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this article, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(E) The sale, purchase, or trade of a drug or an offer to sell, purchase or trade a drug for "emergency medical reasons" for purposes of this article includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent of the total prescription drug sales revenue of either the transferor or transferee pharmacy during any ~~twelve~~ 12 consecutive month period;

(F) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug or the dispensing of a drug pursuant to a prescription;

(G) The distribution of drug samples by manufacturers' representatives or distributors' representatives, if the distribution is permitted under federal law [21 U. S. C. 353(d)];

(H) Drug returns by a pharmacy or chain drug warehouse to wholesale drug distributor or the drug's manufacturer; or

(J) The sale, purchase, or trade of blood and blood components intended for transfusion.

~~(69)~~ "Wholesale drug distributor" or "wholesale distributor" means any person or entity engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers, repackers, own-label distributors, jobbers, private-label

distributors, brokers, warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses and wholesale drug warehouses, independent wholesale drug traders, prescription drug repackagers, physicians, dentists, veterinarians, birth control and other clinics, individuals, hospitals, nursing homes and/or their providers, health maintenance organizations and other health care providers, and retail and hospital pharmacies that conduct wholesale distributions, including, but not limited to, any pharmacy distributor as defined in this section. A wholesale drug distributor shall not include any for hire carrier or person or entity hired solely to transport prescription drugs.

§30-5-19. Collaborative pharmacy practice agreement and practice notification.

(a) A pharmacist engaging in collaborative pharmacy practice shall have on file at his or her place of practice the collaborative pharmacy practice agreement. The existence and subsequent termination of the agreement and any additional information the rules may require concerning the agreement, including the agreement itself, shall be made available to the appropriate licensing board for review upon request. The agreement may allow the pharmacist, within the pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement, to conduct drug therapy management activities approved by the collaborating physician. The collaborative pharmacy practice agreement shall be a voluntary process, which is a physician directed approach after informed consent of the patient and noted in the patient's medical record, that is entered into between an individual physician or physician group and an individual pharmacist or pharmacists. A pharmacist may not diagnose, and an individual patient or the patient's authorized representative who has given informed consent as per subsection (e).

(b) A collaborative pharmacy practice agreement may authorize a pharmacist to provide drug therapy management. In instances where drug therapy is discontinued, the pharmacist shall notify the treating physician of the discontinuance in the time frame and in the manner established by joint legislative rules. Each protocol developed, pursuant to the collaborative pharmacy

practice agreement, shall contain detailed direction concerning the services that the pharmacists may perform for that patient. The protocol shall include, but need not be limited to:

(1) The specific drug or drugs to be managed by the pharmacist;

(2) The terms and conditions under which drug therapy may be implemented, modified, or discontinued;

(3) The conditions and events upon which the pharmacist is required to notify the physician; ~~and~~

(4) The laboratory tests that may be ordered in accordance with drug therapy management; and

(5) The mutually agreed upon patient evaluations the pharmacist may conduct.

(c) All activities performed by the pharmacist in conjunction with the protocol shall be documented in the patient's medical record. The pharmacists shall report at least every ~~thirty~~ 30 days to the physician regarding the patient's drug therapy management. The collaborative pharmacy practice agreement and protocols shall be available for inspection by the board, the West Virginia Board of Medicine, or the West Virginia Board of Osteopathic Medicine, depending on the licensing board of the participating physician. A copy of the protocol shall be filed in the patient's medical record.

(d) Collaborative pharmacy agreements may not include the management of controlled substances.

(e) A collaborative pharmacy practice agreement, meeting the requirements herein established and in accordance with joint rules, shall be allowed in the hospital setting, the nursing home setting, the medical school setting and the hospital, ~~community-based~~ pharmacy setting and ambulatory care clinics. The pharmacist shall be employed by or under contract to provide services to the hospital, community pharmacy, nursing home, ambulatory care clinic, or medical school, or hold a faculty appointment with one of the schools of pharmacy or medicine in this state.

(f) Notwithstanding any other provision to the contrary, a pharmacist or group of pharmacists may practice in collaboration with physicians in any practice setting, including but not limited to a health care system, pursuant to a practice notification which has been filed with the appropriate board: *Provided*, That a pharmacist who is currently in collaboration with physicians pursuant to a practice agreement which was approved prior to June 1, 2023, may continue to practice under that agreement until the practice agreement terminates or until June 1, 2024.

(g) The practice notification shall be filed with the appropriate licensing board and becomes effective immediately upon filing. The board retains jurisdiction to investigate any complaints filed regarding a practice notification with respect to their respective license holders.

~~(f)~~ (h) Nothing pertaining to collaborative pharmacy practice shall be interpreted to permit a pharmacist to accept delegation of a physician's authority outside the limits included in the appropriate board's statute and rules.

The bill (Eng. Com. Sub. for H. B. 4324), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4345, Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

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

Eng. Com. Sub. for House Bill 4380, Relating to transportation of athletic teams.

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

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

On page three, section thirteen, lines fifty-five through sixty, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision (4), to read as follows:

"(4) ~~Pursuant~~ Notwithstanding any other provision of this code to the contrary and pursuant to rules established by the state board, the county board may provide for professional or service employees to be certified to drive county board-owned and insured vehicles that have a seating capacity of fewer than ten passengers including the driver. These employees may use the vehicles to transport students for school-sponsored activities, but may not use the vehicles to transport students between school and home. Not more than ~~one~~ two of these vehicles may be used for any school-sponsored activity;"

And,

On page three, section thirteen, lines sixty-one through sixty-three, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision (5), to read as follows:

(5) ~~Students~~ Notwithstanding any other provision of this code to the contrary, students may ~~not~~ be transported to a school-sponsored activity in ~~any~~ a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver. This section does not prohibit a parent, guardian, or other adult approved in writing by the parent or guardian from transporting ~~ten or fewer~~ students in a privately-owned vehicle;.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 4380), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

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

Eng. House Bill 4462, Relating to Deferred Retirement Option Plan evaluations.

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

Eng. Com. Sub. for House Bill 4489, Require counties to post open positions on statewide job bank.

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

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

On page one, section seven-a, line four, after the word "professional" by inserting a comma and the words "service, and extracurricular".

The bill (Eng. Com. Sub. for H. B. 4489), as amended, was then ordered to third reading.

Eng. House Bill 4517, Relating to the repealing requirements to display video ratings.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Education committee amendments pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4631, Establishing a bone marrow and peripheral blood stem donation awareness program.

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

Eng. House Bill 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

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

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

On page ten, section six-a, by striking out the section caption and inserting in lieu thereof a new section caption to read as follows:

§5-16B-6a. Required coverage for patient cost of clinical trials and autism spectrum disorder treatment;

On page twelve, section six-a, lines fifty-one through fifty-four, by striking out all of subsection (a);

And,

On page twelve, section six-a, line fifty-five, by striking out "(b)".

The bill (Eng. H. B. 4649), 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:

Eng. Com. Sub. for House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

Eng. Com. Sub. for House Bill 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

Eng. House Bill 4019, Relating to deadlines for public charter schools.

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

Eng. Com. Sub. for House Bill 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

Eng. Com. Sub. for House Bill 4295, To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

Eng. Com. Sub. for House Bill 4406, To establish the West Virginia Military Hall of Fame.

Eng. Com. Sub. for House Bill 4418, Relating to the Small Business Supplier Certification Assistance Program.

Eng. Com. Sub. for House Bill 4420, To modify definitions of school bus operators.

Eng. Com. Sub. for House Bill 4430, Relating to definitions of base salary and overtime for police and firemen pensions.

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

Eng. Com. Sub. for House Bill 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

Eng. Com. Sub. for House Bill 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

Eng. House Bill 4578, Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program.

Eng. Com. Sub. for House Bill 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

Eng. Com. Sub. for House Bill 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

Eng. House Bill 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

Eng. Com. Sub. for House Bill 4675, Relating to autonomous delivery vehicles.

Eng. House Bill 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

Eng. House Bill 4769, Eliminate the requirement to send recommended decisions by certified mail.

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

And,

Eng. Com. Sub. for House Bill 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, 9:48 a.m., the Senate recessed until 12 Noon.

The Senate reconvened at 12:04 p.m.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 12:04 p.m., the Senate recessed until 1 p.m.

The Senate reconvened at 1:13 p.m. and, at the request of Senator Maynard, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the third order of business.

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

Eng. Senate Bill 499, Authorizing legislative rules for School Building Authority.

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 713, Removing statutory limit for Environmental Laboratory Certification Fund.

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

Senate Concurrent Resolution 1, US Army PFC Billy Keith Ford Memorial Bridge.

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

Senate Concurrent Resolution 3, USMC CAPT Dempsey Stowers Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 5, US Marine Corps CPL James "Bud" Cox Memorial Bridge.

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

Senate Concurrent Resolution 9, Haynie Family Veterans Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 28, US Army PVT Garland Lee Loudermilk Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. Com. Sub. for House Bill 4084, Relating to advanced recycling.

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

Eng. Com. Sub. for House Bill 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the adoption as amended, of

Eng. House Joint Resolution 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

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 31—Applying to the Congress of the United States to call a convention for proposing amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress: and adopting certain reservations, understandings and declarations limiting the application.

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.

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 the following resolutions:

House Concurrent Resolution 5—Requesting the Division of Highways name a bridge bearing the Bridge Number: 42-219/00-030.96 () (42A136), (38.80906, -79.88206) locally known as Burnt Bridge, carrying US 219 over Tygart Valley River in Randolph County, West Virginia, as the "James 'Big Jim' Shaffer Memorial Bridge".

House Concurrent Resolution 39—Requesting the Division of Highways name the bridge bearing Identification Number 42-219/86-003.18 (42A228), located in Randolph County, West Virginia, carrying County Route 219 over Stalnaker Run, Latitude 38.988821, Longitude -79.83132, locally known as Stalnaker Run Bridge, the "PFC Donald L. Stuckey Memorial Bridge".

House Concurrent Resolution 56—Requesting the Division of Highways name a bridge bearing the bridge number: 08-036/01-000.04 () (08A063), (38.55377,-81.12988) locally known as Laurel Fork Bridge, carrying CR 36/1 over Laurel Fork of Camp Run in Clay County, West Virginia as the "Roy Lee Shamblin Memorial Bridge".

The preceding resolutions (H. C. R. 5, 39, and 56) were 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 92—Requesting the Joint Committee on Government and Finance to conduct a study to assess and address the mental health needs of students at West Virginia higher education institutions.

Referred to the Committee on Education.

The Senate again 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 Concurrent Resolution 55 (originating in the Committee on Energy, Industry, and Mining)—Respectfully urging the current presidential administration to open federal lease sales onshore and offshore; supporting critical energy infrastructure to safely deliver energy produced in West Virginia; and ensuring American energy companies can access the capital they need to hire American workers.

Whereas, All West Virginia residents deserve access to affordable and reliable energy, whether electricity, natural gas, or transportation fuels, and

Whereas, West Virginians are currently dealing with the highest inflation in over 40 years, with energy costs rising 29 percent, and gasoline surging 50 percent, according to the U.S. Bureau of Labor Statistics; and

Whereas, The current administration is pursuing a policy placing the United States at the mercy of the Organization of Petroleum Exporting Countries and Russia to meet our domestic needs, harming our national and economic security; and

Whereas, Foreign oil imports from Russia surged more than 20 percent providing over \$16 billion to Russia in 2021, according to the U.S. Energy Information Agency; and

Whereas, The current administration has frozen federal lease sales for American energy resources onshore and offshore while cancelling critical energy infrastructure projects like the KeystoneXL pipeline which would have reduced our dependence on Russian oil imports; and

Whereas, The current administration is actively litigating against its obligations to issue lease sales on federal lands and waters required under federal law; and

Whereas, The Federal Energy Regulatory Commission has continually delayed important decisions on permits for pipelines across the country and has recently issued new harmful policy statements that could further delay and impede critical domestic energy infrastructure from being developed, depriving West Virginia access to energy markets outside of our state; and

Whereas, The Securities and Exchange Commission is designing rules to discourage investment in domestic oil and natural gas companies which may further impede production and opportunities for West Virginians; and

Whereas, The Environmental Protection Agency has not issued a decision on West Virginia's application for Class VI primacy that would allow West Virginia to safely utilize long-term storage in conjunction with state energy development; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby respectfully urges the current Presidential Administration to open federal lease sales onshore and offshore, supporting critical energy infrastructure to safely deliver energy produced in West Virginia, and ensuring American energy companies can access the capital they need to hire American workers; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, the Secretary of the Interior, the Secretary of the Department of Energy, the Federal Energy Regulatory Commission, the White House National Climate Advisor, the Speaker and Clerk of the United States House of Representatives, 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.

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

Respectfully submitted,

Randy E. Smith,
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 2300, Including Family Court Judges in the Judges' Retirement System.

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,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on the Judiciary pending.

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

Eng. Com. Sub. for House Bill 4098, Relating to Geothermal Energy Development.

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.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Karnes, Weld, and Brown.

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

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following resolution on March 3, 2022:

Senate Concurrent Resolution 53: Senator Nelson.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolution on March 3, 2022:

Senate Resolution 48: Senators Stollings, Lindsay, and Jeffries.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:35 p.m., the Senate adjourned until Monday, March 7, 2022, at 11 a.m.

MONDAY, MARCH 7, 2022

The Senate met at 11:12 a.m.

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

Prayer was offered by the Honorable Rollan A. Roberts, a senator from the ninth district.

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, March 4, 2022,

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 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 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 3, line 57, by inserting a new paragraph (G) to read as follows:

"(G) A managed care organization does not have an obligation to provide any of the information specified in this section regarding a patient if that patient ceases to be an enrolled member of that particular MCO."

On motion of Senator Weld, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 419, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 419) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 1, following the enacting clause by striking the rest of the bill in its entirety and inserting in lieu thereof the following:

ARTICLE 14. THE STATEWIDE INTEROPERABLE RADIO NETWORK.

§15-14-6. Duties of the Statewide Interoperability Executive Committee.

The Executive Committee shall:

- (1) Monitor the implementation and operation of the SIRN;
- (2) Establish goals and guidance for the betterment of the SIRN;
- (3) Review and approve all requests for use of the SIRN and its equipment, by a public or private entity;
- (4) ~~Serve as the mechanism for developing, updating and implementing~~ Develop, update, and implement policies, procedures, and guidelines related to the SIRN;
- (5) Identify new technologies and develop technologies and standards for the SIRN;
- (6) Enhance the coordination of all available resources for public safety communications interoperability;
- (7) Investigate all matters relating to integrity, foresight in funding and operations and planning for the SIRN;
- (8) Revoke, suspend, or modify any entity's use of the SIRN and equipment connected to the SIRN: *Provided, That nothing in this section shall be construed to invalidate the vertical real estate management act as provided in §31G-5-3 of this code;*

(9) Provide guidance and services to support the proper cleansing of all decommissioned radio previously connected to SIRN; and

(10) Require all state agencies to submit two-way telecommunications equipment, not handled by the Office of Technology, to the Division of Emergency Management for cleansing, redistribution, reuse, or for the sale of the two-way telecommunications equipment.

§15-14-9. Creation of the Statewide Interoperable Radio Network account; purpose; funding; disbursements.

(a) There is hereby created in the State Treasury a special revenue account to be known as the "Statewide Interoperable Radio Network Account" to be administered by the director. The special revenue account shall consist of appropriations made by the Legislature; income derived from the lease of property, towers or tower space owned, operated or controlled by the WVDHSEM or any other state agency managed as part of the SIRN; moneys received by the Department of Health and Human Resources or WVDHSEM as proceeds of any claims for damages to structures, equipment or property of any kind, including moneys in the Insurance Property Loss Claims Fund administered by the Division of Health; income from the investment of moneys held in the special revenue account; grant money and all other sums available for deposit to the special revenue account from any source, public or private; and moneys received from the sale of recycled two-way telecommunications equipment pursuant to §15-14-6(10) of this code.

(b) Expenditures from the Statewide Interoperable Radio Network Account shall be for the purposes set forth in this article and used exclusively, to pay costs, fees and expenses incurred, or to be incurred for the following purposes: (1) The maintenance, upkeep and repair of the SIRN; (2) operations of the Executive Committee; (3) payment of salaries for the SWIC and any personnel required to operate and maintain the SIRN; (4) the design, implementation and management of the SIRN; (5) all other related SIRN activities approved by the Executive Committee; and

(6) all costs incurred in the administration of the Statewide Interoperable Radio Network Account. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2018, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(c) Disbursements from the Statewide Interoperable Radio Network Account shall be authorized by the director or his or her designee. Moneys in the Statewide Interoperable Radio Network Account are not available for the payment of any personal injury claims, workers' compensation claims or other types of disability claims.

(d) Quarterly, the director shall prepare an accounting of all moneys disbursed from and any deposits made to the Statewide Interoperable Radio Network Account. This accounting shall include the reason for the withdraw, the recipients of any withdraw, and the source of any deposit.;

And,

By striking out the title and inserting in lieu thereof a new title, to read as follows:

Eng. Senate Bill 448—A Bill to amend and reenact §15-14-6 and §15-14-9 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Interoperable Radio Network; providing duties for the Statewide Interoperability Executive Committee; authorizing the Statewide Interoperability Executive Committee to revoke, suspend, or modify any entity's use of the Statewide Interoperable Radio Network or equipment connected thereto; and requiring certain state agencies to submit two-way telecommunications equipment to the Division of Emergency Management for cleansing, redistribution, reuse or sale, with proceeds directed to the Statewide Interoperable Radio Network account.

On motion of Senator Weld, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 448, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 448) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 520, Increasing financial penalties for ransomware attacks.

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 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 1 by striking everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 7. JOBS INVESTMENT TRUST FUND.

§12-7-2. Legislative findings.

(a) The Legislature finds that the ~~creation of a public body corporate~~ Jobs Investment Trust is a necessary tool to make investment funds available to eligible businesses, would stimulate economic growth, and provide or retain jobs within the state. Accordingly, it is declared to be the public policy of the state to create an investment program to inject needed capital into the business community, sustain or improve business profitability, and provide jobs to the citizens of the state.

(b) The Legislature further finds that:

(1) The availability of financial assistance through the creation of the jobs investment trust will promote economic development in the state and will serve the public purposes of the state;

(2) The public policy of the state will be served through financing projects, extending loans, providing financing or credit for working capital, creating innovative investment plans and options, and providing equity financing or the refinancing of existing debt of an enterprise;

(3) It is in the public interest, in order to address the needs of the business community and the citizens of the state, that a public body corporate be created with full power to accept grants, gifts, and appropriations; to generate revenues to furnish money and credit to approved businesses or enterprises; to promote the establishment of new and innovative projects; and to upgrade, expand, and retain existing projects; and

(4) Fundamental changes are occurring in national and international markets that increase the need for debt financing, equity capital, and near-equity capital for emerging, expanding, and restructuring business opportunities in the state.

(c) The Legislature further finds that:

(1) ~~That due~~ Due to the creation of the ~~jobs investment trust~~ Jobs Investment Trust, moneys will be available for venture capital in this state;

(2) ~~That the~~ The implementation of this innovative program may supplant the need for the state to otherwise assist private venture capital concerns through other tax credits;

(3) ~~That due~~ Due to the availability of venture capital funds through this program the granting of venture capital company credits under the Capital Company Act should be reduced for three fiscal years pending the full implementation of the Jobs Investment Trust Program;

(4) ~~That due~~ Due to this reduction in the certification of tax credits, additional general revenue may become available for new economic development programs;

(5) These economic development programs may be funded from general revenue in an amount appropriate to effectuate the purposes of these programs; and

(6) Due to the foregoing findings, there shall be an annual line item appropriation, in an amount determined by the Legislature, to the West Virginia ~~development office~~ Development Office for a matching grant program for regional economic development corporations or authorities.

§12-7-3. Definitions.

For purposes of this article:

(a) "Board" means ~~the jobs investment trust board established pursuant to section four of this article~~ the West Virginia Economic

Development Authority, established pursuant to §31-15-1 et seq. of this code.

(b) "Eligible business" means any business, including, but not limited to, a business licensed or seeking licensure by the small business administration as a small business investment company under the ~~small business investment act~~ Small Business Investment Act, which is qualified to do business in West Virginia and is in good standing with all applicable laws affecting the conduct of such business.

(c) ~~"Nonincentive Non-incentive tax credits" means the nonincentive non incentive tax credits issued by the state to the jobs investment trust board~~ Jobs Investment Trust Board and authorized for sale and transfer by the jobs investment trust board pursuant to ~~section eight a of this article~~ §12-7-8a of this code.

(d) "Securities" means all bonds, notes, stocks, units of ownership, debentures, or any other form of negotiable or nonnegotiable evidence of indebtedness or ownership.

§12-7-4. Jobs Investment Trust Board; termination; vesting with the Economic Development Authority ~~composition; appointment, term of private members; chairman; quorum.~~

(a) The Jobs Investment Trust Board is ~~continued~~ hereby terminated, and the management and control of the Jobs Investment Trust shall be vested in the West Virginia Economic Development Authority. ~~The board is a public body corporate and established to improve and otherwise promote economic development in this state.~~

~~(b) The board consists of thirteen members, five of whom serve by virtue of their respective positions. These five are the Governor or designee; president of West Virginia University or designee; the president of Marshall University or designee; the chancellor of the higher education policy commission or designee; and the executive director of the West Virginia housing development fund. One member is appointed by the Governor from a list of two names~~

~~submitted by the board of directors of the Housing Development Fund. One member is appointed by the Governor from a list of two names submitted by the commissioner of the division of tourism. The other six members are appointed from the general public by the Governor. Of the general public members appointed by the Governor, one is an attorney with experience in finance and investment matters; one is a certified public accountant; one is a representative of labor; one is experienced or involved in innovative business development; and two are present or past executive officers of companies listed on a major stock exchange or large privately held companies. All appointments made pursuant to the provisions of this article are by and with the advice and consent of the Senate.~~

~~(c) A vacancy on the board is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the unexpired term.~~

~~(d) The Governor may remove any appointed member in case of incompetency, neglect of duty, moral turpitude or malfeasance in office and fill the vacancy as provided in other cases of vacancy.~~

~~(e) The Governor or designee serves as the chair. The board annually elects one of its public members as vice chair and appoints a secretary to keep records of its proceedings who need not be a member of the board.~~

~~(f) Seven members of the board is a quorum. Action may not be taken by the board except upon the affirmative vote of at least a majority of those members present or participating by any other means as described in subsection (g) of this section, but in any event not fewer than six of the members serving on the board.~~

~~(g) Members of the board may participate in a meeting of the board by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other. Participation in a board meeting pursuant to this subsection constitutes presence in person at the meeting.~~

~~(h) The members of the board are not compensated for their services as members of the board, but receive reasonable and necessary expenses actually incurred in discharging their duties under this article in a manner consistent with guidelines of the travel management office of the Department of Administration.~~

~~(i) The board meets on a quarterly basis or more often if necessary.~~

~~(j) The Governor shall appoint a member for a four year term. Any member whose term has expired serves until a successor is duly appointed and qualified. Any member is eligible for reappointment.~~

~~(k) Additionally, one member of the West Virginia House of Delegates, appointed by the Speaker of the House of Delegates, and one member of the West Virginia Senate, appointed by the President of the Senate, serve as advisory members of the Jobs Investment Trust Board and, as advisory members, are ex officio, nonvoting members.~~

(b)The board shall meet on a quarterly basis or more often, if necessary, to carry out the powers and duties of the board with respect to the management of the Jobs Investment Trust, as set forth in this article.

(c) For the purposes of managing the Jobs Investment Trust, the rules related to board makeup and quorum requirements shall be the same as those set forth in §31-15-5 of this code.

§12-7-5. Management and control of jobs investment trust vested in board; officers; liability; authority of executive director to act on behalf of board; relationship to higher education institutions.

(a) It is the duty of the board to manage and control the Jobs Investment Trust. With the advice and consent of the Senate, the Governor appoints an executive director of the ~~jobs investment trust~~ Jobs Investment Trust who is or has been a senior executive of a major financial institution, brokerage firm, investment firm or similar institution, with extensive experience in capital market

development. The director serves at the Governor's will and pleasure and is responsible for managing and administering the daily functions of the ~~jobs investment trust~~ Jobs Investment Trust and for performing other functions necessary to the effective operation of the trust. The compensation of the director is annually fixed by the board.

(b) The board annually elects a secretary to keep a record of the proceedings of the board, who need not be a member of the board.

(c) The members and officers of the board are not liable personally, either jointly or severally, for any debt or obligation created by the board.

(d) The acts of the board are solely the acts of its corporation and are not those of an agent of the state. A debt or obligation of the board is not a debt or obligation of the state.

(e) Upon the affirmative vote of at least a majority of those members in attendance ~~or participating by such other means as described in subsection (g), section four of this article~~ in a meeting of the board, ~~but in any event not fewer than six of the members serving on the board,~~ the board may approve any action to be taken and authorize the executive director for and on behalf of the board to execute and deliver all instruments, agreements, or other documents that are required or are reasonably necessary to effectuate the decisions or acts of the board.

(f) The West Virginia ~~Housing Development Fund~~ Economic Development Authority shall provide office space and staff support services for the director and the board shall act as fiscal agent for the board and, as such, shall provide accounting services for the board, invest all funds as directed by the board, service all investment activities of the board, and shall make the disbursements of all funds as directed by the board, for which the West Virginia ~~Housing Development Fund~~ Economic Development Authority shall be reasonably compensated as determined by the board.

(g) The board and the executive director shall involve students and faculty members of state institutions of higher education in the board's activities in order to enhance the opportunities at the institutions for learning and for participation in the board's investment activities and in the economic development of the state, whether in research, financial analysis, management participation, or in such other ways as the board and the executive director may, ~~in their discretion,~~ find appropriate.

§12-7-6. Corporate powers.

The board may:

(1)(~~ii~~A) Make loans to eligible businesses with or without interest secured if and as required by the board; and (~~ii~~B) acquire ownership interests in eligible businesses. These investments may be made in eligible businesses that stimulate economic growth and provide or retain jobs in this state and shall be made only upon the determination by the board that the investments are prudent and meet the criteria established by the board;

(2) Accept appropriations, gifts, grants, bequests, and devises and use or dispose of them to carry out its corporate purposes;

(3) Make and execute contracts, releases, compromises, agreements, and other instruments necessary or convenient for the exercise of its powers or to carry out its corporate purposes;

(4) Collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments, and other ~~evidences~~ evidence of indebtedness, in connection with making equity investments and in connection with providing technical, consultative, and project assistance services;

(5) Sue and be sued;

(6) Make, amend, and repeal bylaws and rules consistent with the provisions of this article;

(7) Hire its own employees, who shall be employees of the State of West Virginia for purposes of ~~articles ten and sixteen,~~

~~chapter five of this code §5-10-1 et seq. and §5-16-1 et seq. of this code,~~ and appoint officers and consultants and fix their compensation and prescribe their duties;

(8) Acquire, hold, and dispose of real and personal property for its corporate purposes;

(9) Enter into agreements or other transactions with any federal or state agency, college or university, any person and any domestic or foreign partnership, corporation, association, or organization;

(10) Acquire real and personal property, or an interest in real or personal property, in its own name, by purchase or foreclosure when acquisition is necessary or appropriate to protect any loan in which the board has an interest; to sell, transfer, and convey any real or personal property to a buyer; and, in the event a sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease real or personal property to a tenant;

(11) Purchase, sell, own, hold, negotiate, transfer, or assign: ~~(iA)~~ Any mortgage, instrument, note, credit, debenture, guarantee, bond, or other negotiable instrument or obligation securing a loan, or any part of a loan; ~~(iiB)~~ any security or other instrument evidencing ownership or indebtedness; or ~~(iiiC)~~ equity or other ownership interest. An offering of one of these instruments shall include the representation and qualification that the board is a public body corporate, managing a venture capital fund that includes high-risk investments and that in any transfer, sale, or assignment of any interest, the transferee, purchaser, or assignee accepts any risk without recourse to the Jobs Investment Trust or to the state;

(12) Procure insurance against losses to its property in amounts, and from insurers, as is prudent;

(13) Consent, when prudent, to the modification of the rate of interest, time of maturity, time of payment of installments of principal or interest, or any other terms of the investment, loan, contract, or agreement in which the board is a party;

(14) Establish training and educational programs to further the purposes of this article;

(15) File its own travel rules;

(16) Borrow money to carry out its corporate purpose in principal amounts and upon terms as are necessary to provide sufficient funds for achieving its corporate purpose;

(17) Take options in or warrants for, subscribe to, acquire, purchase, own, hold, transfer, sell, vote, employ, mortgage, pledge, assign, pool, or syndicate: (~~i~~A) Any loans, notes, mortgages, or securities; (~~ii~~B) debt instruments, ownership certificates, or other instruments evidencing loans or equity; or (~~iii~~C) securities or other ownership interests of or in domestic or foreign corporations, associations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, joint ventures, or other private enterprise to foster economic growth, jobs preservation and creation in the ~~state~~ State of West Virginia, and all other acts that carry out the board's purpose;

(18) Contract with either Marshall ~~university~~ University or West Virginia ~~university~~ University, or both, for the purpose of retaining the services of, and paying the reasonable cost of, services performed by the institution for the board ~~in order~~ to effectuate the purposes of this article;

(19) Enter into collaborative arrangements or contracts with private venture capital companies when considered advisable by the board;

(20) Provide equity financing for any eligible business that will stimulate economic growth and provide or retain jobs in this state and hold, transfer, sell, assign, pool, or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities, debt instruments, or other instruments evidencing loans or equity interest in furtherance of the board's corporate purposes;

(21) Form partnerships, create subsidiaries, or take all other actions necessary to qualify as a small business investment

company under the United States Small Business Investment Act, PL 85-699, as amended;

(22) Provide for staff payroll and make purchases in the same manner as the ~~housing development fund~~ West Virginia Economic Development Authority;

(23) Indemnify its members, directors, officers, employees, and agents relative to actions and proceedings to which they have been made parties and make advances for expenses relative thereto and purchase and maintain liability insurance on behalf of those persons all to the same extent as authorized for West Virginia business corporations under present or future laws of the state applicable to business corporations generally; and

(24) Contract for the provision of legal services by private counsel and, notwithstanding the provisions of ~~article three, chapter five §5-3-1 et seq.~~ of this code, counsel may, but is not limited to, represent the board in court, negotiate contracts and other agreements on behalf of the board, render advice to the board on any matter relating thereto, prepare contracts and other agreements, and provide any other legal services requested by the board.

§12-7-7. Limitation on investments.

Subject to the provisions of §12-7-9 of this code ~~section nine of this article~~, the board may invest in any eligible business: *Provided*, That at the time of the placement of the investment not more than ~~twenty~~ 20 percent of the board's total investment portfolio is invested in one eligible business within any two-year period: *Provided, however*, That the board may invest in an eligible business up to an additional ~~twenty~~ 20 percent of the board's total investment portfolio, or up to a total of \$2,000,000, whichever is less. The additional investment must be in the form of a short-term debt investment to be repaid within ~~twelve~~ 12 months of the investment: *Provided further*, That the board may extend said ~~twelve~~ 12-month repayment term ~~until September 30, 1994~~, and upon terms consistent with the actions of other investors involved in similar investments with the eligible business if the eligible

business demonstrates to the board: (~~1~~) That said business is progressing with a plan for capital formation and business development; and (~~2~~) that said extension of the ~~twelve~~ 12-month period, and any other modification thereto, will not substantially prejudice the position of the board in relation to the other investors in, and creditors of, the eligible business: ~~The board shall report any extension of any repayment term made prior March 31, 1994, and approved by the board pursuant to the provisions of this section, to the governor and to the Legislature's joint committee on government and finance within twenty days of such approval: And provided further~~ *Provided further*, That the board shall report to the ~~governor~~ Governor and the ~~joint committee on government and finance~~ Joint Committee on Government and Finance of its intention to extend any repayment term at least ~~twenty~~ 20 days prior to the board approving any extension made on or after April 1, 1994. Any reported intent to extend any repayment term may be made electronically.

§12-7-8. Funding.

[Repealed].

§12-7-9. Applications for investment priority; investment package.

(a) The board shall accept and review applications from eligible businesses and shall determine the investment worthiness, the benefits to the West Virginia economy, the leverage potential for investments in small business investment companies, the jobs creation potential, and the economic circumstances of the region or regions of the state that would benefit from each proposal. The board shall attempt to balance its investments, as nearly as is practicable, among the geographic regions of the state.

(b) Any faculty or students of a public or private institution of higher education in the state may present for the board's consideration proposals relating to innovative projects or investment opportunities.

(c) An annual audit shall be conducted by an independent firm of certified public accountants and shall be made available to the Legislature annually. A copy of the audit may be provided to the Legislature electronically and paper copies may be provided upon the request of any member.

(d) The board shall forward to the West Virginia ~~housing development fund~~ Economic Development Authority for its review and information approved investment packages containing information as is necessary to permit the West Virginia ~~housing development fund~~ Economic Development Authority to carry out its duties under this article. The board shall determine whether each applicant is an eligible business.

§12-7-12. Reports of board; report of housing development fund.

(a) The board shall prepare annually, or more frequently if deemed necessary by the board, a report of its operations and the performance of the various investments administered by it. A copy thereof shall be furnished to the ~~governor~~ Governor, the ~~president~~ President of the Senate, the ~~speaker~~ Speaker of the House of Delegates, the ~~legislative auditor~~ Legislative Auditor, and, upon request, to any legislative committee. Such report shall be kept available for inspection by any citizen of this state. The report required in this subsection may be made available electronically on the board's website or through the website of the West Virginia Economic Development Authority. The report may be submitted to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Legislative Auditor, or to any legislative committee electronically and paper copies must be provided upon request.

(b) The West Virginia ~~housing development fund~~ Economic Development Authority shall prepare annually and submit to the ~~president~~ President of the Senate, the ~~speaker~~ Speaker of the House of Delegates, the ~~legislative auditor~~ Legislative Auditor, and, upon request, any legislative committee, a report on the performance of the board and the quality of its investments for the preceding year. The report required in this subsection may be made available

electronically on the West Virginia Economic Development Authority's website. The report may be submitted to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Legislative Auditor, or to any legislative committee electronically and paper copies must be provided upon request.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-6. General powers of authority.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(a~~1~~) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing, and tourist activity in this state.

(b~~2~~) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(c~~3~~) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(d~~4~~) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(e~~5~~) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed, or to testify or who commits any contempt after being summoned to appear.

(~~f~~6) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits, and issue subpoenas.

(~~g~~7) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(~~h~~8) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs: *And provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to, federal grant funds received from the United States Economic Development Administration.

(~~i~~9) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(~~j~~10) To issue and deliver revenue bonds or notes in exchange for a project.

(~~k~~11) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its

bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(~~h~~12) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(~~m~~13) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(~~n~~14) To adopt, use, and alter ~~at will~~ a corporate seal.

(~~o~~15) To make, amend, repeal, and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

(~~p~~16) To appoint officers, agents, and employees and to contract for and engage the services of consultants.

(~~q~~17) To make contracts and to execute all instruments necessary to carry out the powers and duties of the authority, as provided in this article: *Provided*, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision: *Provided, however*, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 *et seq.* of this code.

(~~r~~18) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(~~s~~19) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease, or convey such project to any enterprise.

(~~t~~20) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United

States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security, or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(~~u~~21) To acquire, construct, maintain, improve, repair, replace, and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks, and other means of ingress and egress to and from projects located within this state.

(~~v~~22) To acquire, construct, maintain, improve, repair, and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities, and any combinations thereof for the use and benefit of any enterprise located within this state.

(~~w~~23) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses, and ~~any and~~ all other property, property rights, and appurtenances for the use and benefit of any enterprise located within this state.

(~~x~~24) To acquire, by purchase, lease, donation, or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights, and interests acquired by the authority shall be taken in the name of the authority.

(~~y~~25) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded

have or have not matured and whether ~~or not~~ the authority originally issued the bonds or notes to be refunded.

(~~z~~26) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests, or bonds or notes to be refunded.

(~~aa~~27) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the United States of America or from any governmental unit or any person, firm, or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring, acceptance, or disposition of gifts or grants.

(~~bb~~28) To the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interests, note or contract or agreement of any kind to which the authority is a party.

(~~ee~~29) To sell loans, security interests, or other obligations in the loan portfolio of the authority. Such security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(~~dd~~30) To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as the authority deems desirable.

(~~ee~~31) To sell, license, lease, mortgage, assign, pledge, or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy, or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(~~ff~~32) To participate with ~~the~~ state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(~~gg~~33) To finance, organize, conduct, sponsor, participate, and assist in the conduct of special institutes, conferences, demonstrations, and studies relating to the stimulation and formation of business, industry, and trade endeavors.

(~~hh~~34) To conduct, finance, and participate in technological, business, financial, and other studies related to business and economic development.

(~~ii~~35) To conduct, sponsor, finance, participate, and assist in the preparation of business plans, financing plans, and other proposals of new or established businesses suitable for support by the authority.

(~~jj~~36) To prepare, publish, and distribute, with or without charge, as the authority may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(~~kk~~37) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

(~~ll~~38) To exercise all ~~of~~ the powers which a corporation may lawfully exercise under the laws of this state.

(~~mm~~39) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 *et seq.* of this code, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

~~(nn40)~~ To develop, maintain, operate, and apply for the establishment of foreign trade zones pursuant to and in accordance with all applicable provisions of federal law.

~~(oo41)~~ To exercise the powers and responsibilities previously vested in the State Building Commission by §5-6-11a of this code, including, but not limited to, the authority to refund bonds issued in accordance with said section.

(42) To manage the Jobs Investment Trust described in §12-7-1 et seq. of this code, and to exercise those powers and responsibilities previously vested in the Jobs Investment Trust Board, as outlined in §12-7-6 of this code.

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-20c. Jobs Development Fund.

There is hereby created and established a special fund to be designated as the ~~"jobs development fund"~~ Jobs Development Fund into which the Housing Development Fund shall, effective July 1, 1992, deposit the sum of \$10 million. Thereafter, the Housing Development Fund shall have no further duty or obligation to, but may in its sole discretion, deposit additional funds. Effective July 1, 2022, such funds shall be governed, administered, and accounted for by the ~~Housing Development Fund~~ West Virginia Economic Development Authority established pursuant to §31-15-1 *et seq.* of this code as a special purpose account separate and distinct from any other moneys, fund, or funds owned or managed by the ~~Housing Development Fund~~ authority. The sole and exclusive purpose of such fund shall be to provide a source for distribution from time to time to the jobs investment trust as provided for in ~~article seven, chapter twelve~~ §12-7-1 et seq. of this code. Upon receipt by the ~~Housing Development Fund~~ authority from time to time of a written requisition from the trust together with a certificate that the funds so requisitioned will be used in accordance with the provisions of ~~article seven, chapter twelve~~ §12-7-1 et seq. of this code and are expected to be expended within ~~thirty~~ 30 days after such disbursement to fund a loan or other investment or to pay

the operating expenses of the trust, the ~~Housing Development Fund authority~~ shall disburse the amount so requisitioned. Until so disbursed, the moneys initially deposited or thereafter from time to time deposited in such fund may be invested and reinvested by the ~~Housing Development Fund authority~~ as permitted under ~~subdivision (8), section six of this article §31-18-6 of this code. Upon the dissolution or the termination of the jobs investment trust board, any funds remaining in the jobs development fund shall automatically revert to the General Fund of the Housing Development Fund free of any limitations provided in this section.~~

On motion of Senator Weld, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 523, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 523) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 19, section 8c, line 196, by creating a new subsection with the following language:

(l) Any rules promulgated by the Library Commission will remain in full force and effect until amended, repealed, or superseded by another rule promulgated by the Library Commission or State Library Section.

Senator Weld moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Weld's aforesated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 524, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Beach, Brown, Caputo, Geffert, Romano, and Stollings—6.

Absent: Takubo—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. 524) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 537, Providing additional firefighters and security guards for National Guard.

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

Eng. Senate Bill 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 2, section 3, line 19, by striking out the word "Technology" and inserting in lieu thereof the word "Information".

On motion of Senator Weld, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 542, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith,

Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 542) passed with its title.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 542) takes effect from passage.

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

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

Eng. Senate Bill 597, Relating to PSC underground facilities damage prevention and one-call system.

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 598, Establishing partnerships and aid for at-risk veterans to combat suicide.

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

Eng. Senate Bill 638, Changing hearing and notice provisions for failing or distressed public utilities.

On motion of Senator Weld, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2H. POWER OF COMMISSION TO ORDER MEASURES UP TO AND INCLUDING THE ACQUISITION OF DISTRESSED AND FAILING WATER AND WASTEWATER UTILITIES.

§24-2H-6. Notice to distressed or failing utility and formal proceeding.

(a) A proceeding under this article may be initiated by the commission on its own motion, or by the staff of the commission, or any other person or entity having a legal interest in the financial, managerial or operational condition of the utility, by filing a petition with the commission. In any such petition, the utility shall be named as the respondent. The commission shall include as additional parties any capable proximate public and private utilities that may be able to acquire the utility.

(b) The commission shall hold an evidentiary and public hearing(s) in a location in or within 25 miles of the utility's service area. The commission shall give reasonable notice of the time, place and subject matter of the hearing as follows:

~~(1) A Class I legal publication in a qualified newspaper pursuant to §59-3-2(a) of this code in the county or counties where~~

~~the utility is located; to take place no more than 10 days before the date of the hearing~~

~~(2)~~ (1) Issuance of a press release;

~~(3)~~ (2) Written notice by certified mail or registered mail to:

(A) The utility;

(B) The Consumer Advocate Division;

(C) Capable proximate public or private utility(s) that were made parties to the proceeding; and

(D) The county commission if the utility is a public service district; or

(E) The municipality if the utility is owned and operated by the municipality.

~~(4)~~ (3) The utility shall give notice to its customers of the time, place and subject matter of the hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.

(c) The public hearing shall be conducted to receive public comments, including, but not limited to, comments regarding possible options available to bring the distressed or failing utility into compliance with appropriate statutory and regulatory standards concerning actual or imminent public health problems or unreasonable quality and reliability service standards. At the evidentiary hearing, the commission shall receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should acquire the utility. If there is more than one capable proximate utility, then sufficient evidence should be presented to allow the commission to determine the appropriate capable proximate utility to acquire the distressed or failing utility.

Senator Weld moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Weld's aforestated motion, the same was put and prevailed.

Engrossed Senate Bill 638, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Maroney, Romano, Stollings, Stover, and Woelfel—12.

Absent: Takubo—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. 638) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

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

Com. Sub. for Senate Concurrent Resolution 11, Dennis E. Davis Veterans Nursing Home.

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

Com. Sub. for Senate Concurrent Resolution 13, US Army PFC Joseph Stanley McKinney Memorial Bridge.

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

Senate Concurrent Resolution 23, USMC CPL Guy Maywood Edwards Memorial Bridge.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

On motion of Senator Weld, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Takubo, Woodrum, and Plymale.

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

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

House Concurrent Resolution 95—Requesting the Division of Highways name bridge number (10815), carrying CR 52, known as New Hope Road, over Blue Creek in Kanawha County, the "Clemmer Brothers WWII Veterans Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 96—Requesting that the Division of Highways name a portion of West Virginia Route 61, in Kanawha County, beginning at the West end of WV Rt 61 at the Chesapeake, West Virginia city limit and ending at the East end of WV Rt 61 at the Chesapeake, West Virginia city limit the "U. S. Air Force Captain Perry Thomas Rose Memorial Road".

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 56 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the effect of *Kenney v. Liston*, 233 W. Va. 620 (2014).

Whereas, in Syl. Pt. 7, *Kenney v. Liston*, 233 W. Va. 620 (2014), the West Virginia Supreme Court of Appeals held that, where an injured person's health care provider agrees to reduce, discount or write off a portion of the person's medical bill, the person may recover the entire reasonable value of the medical services necessarily required by the injury, and the tortfeasor is not entitled to receive the benefit of the reduced, discounted, or written-off amount: therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the effect of *Kenney v. Liston*, 233 W. Va. 620 (2014); and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with

drafts of any legislation necessary to effectuate its recommendations; and be it

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

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

Respectfully submitted,

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 Concurrent Resolution 57 (originating in the Committee on Health and Human Resources)—Requesting the West Virginia Insurance Commission study coverage options and costs for the coverage of medically necessary dental procedures that result from cancer related dental and oral health procedures.

Whereas, Approximately 50,000 Americans are diagnosed with oral cancer every year based upon reports of the Oral Cancer Foundation; and

Whereas, Half of the diagnosed individuals survive for five years or longer; and

Whereas, Since people might not have regular oral cancer screenings, this cancer is often detected late and at a more dangerous stage; and

Whereas, In order to improve patient outcomes, the West Virginia Insurance Commission is directed to study coverage options and costs if provided by insurance plans covered under

§33-1-1 *et seq.* W. Va. Code for the coverage of medically necessary dental procedures to include the following: Evaluations, examinations, patient education, laboratory assessments, medications, treatments, restoration, rehabilitation, medical devices, and prosthesis needed to obtain cancer treatment or restore whole or partial function associated with eating, breathing, voice, speech, and swallowing related to a cancer diagnosis; and

Whereas, The West Virginia Insurance Commission is directed to study coverage options and costs if provided by insurance plans covered under §33-1-1 *et seq.* W. Va. Code for the coverage of medically necessary oral health procedures to include the following: Surgery, chemotherapy, biotherapy, pharmacology, immunotherapy, or radiation related to a cancer diagnosis; therefore be it

Resolved by the Legislature of West Virginia:

That the West Virginia Insurance Commission study coverage options and costs for the coverage of medically necessary dental procedures that result from cancer related dental and oral health procedures; and, be it

Further Resolved, That the West Virginia Insurance Commission shall report to the Legislative Oversight Commission on Health and Human Resources Accountability on July 1, 2023.

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

Respectfully submitted,

Michael J. Maroney,
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 2631, Provide for WVDNR officers to be able to work "off duty".

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 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

Eng. Com. Sub. for House Bill 4050, Defining terms related to livestock trespassing.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,
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 4296, To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4311, Creating criminal penalties for illegal voting activity.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4331, West Virginia's Urban Mass Transportation Authority Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Eng. Com. Sub. for House Bill 4441, Creating a Class M air rifle stamp.

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,

Dave Sypolt,
Chair.

At the request of Senator Tarr, 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 Agriculture and Rural Development.

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

Eng. Com. Sub. for House Bill 4570, To allow veterinary telehealth in West Virginia with out of state 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,

Dave Sypolt,
Chair.

At the request of Senator Tarr, 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 Agriculture and Rural Development.

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

Eng. Com. Sub. for House Bill 4644, Prohibiting the restriction, regulation, use or administration of lawn care and pest care products.

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

Respectfully submitted,

Dave Sypolt,
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 4712, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4842, Relating to obscene matter to minors.

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 seventh order of business.

Senate Concurrent Resolution 55, Respectfully urging current presidential administration to open federal lease sales onshore and offshore.

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 Resolution 50, Designating March 7, 2022, as WV Library Day at Legislature.

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

At the request of Senator Lindsay, 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 eighth order of business.

Eng. House Bill 2817, Donated Drug Repository Program.

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

At the request of Senator Weld, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's second reading calendar.

Eng. Com. Sub. for House Bill 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4065) passed.

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

Eng. Com. Sub. for House Bill 4065—A Bill to amend and reenact §18-2-8a of the Code of West Virginia, 1931, as amended, relating to a hunter safety orientation program in public schools; requiring program to be established and implemented; establishing parameters for scheduling; directing the State Board of Education to promulgate a rule for program requirements and implementation; and providing minimum program requirements including parameters for when the program is required to be offered.

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 4282, Relating to establishing next generation 911 services in this 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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4282) passed with its title.

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

Eng. House Bill 4286, Relating to exempting persons employed as attorneys from the civil service system.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Brown, Caputo, Geffert, and Romano—4.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4286) passed with its title.

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

Eng. House Bill 4291, Relating to authorizing legislative rules regarding higher education.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4291) passed with its title.

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

Eng. Com. Sub. for House Bill 4324, To update collaborative pharmacy practice agreements.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith,

Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4324) passed.

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

Eng. Com. Sub. for House Bill 4324— A Bill to amend and reenact §30-5-4 and §30-5-19 of the Code of West Virginia, 1931, as amended, all relating to collaborative pharmacy practice; defining terms; setting forth requirements for different practice settings; prohibiting certain practices; removing board approval of specified items; updating the terms of collaborative practice agreements; providing for a practice notification; and providing for the procedure for the practice notification.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Takubo—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. 4324) 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 4345, Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4345) passed with its title.

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

Eng. Com. Sub. for House Bill 4380, Relating to transportation of athletic teams.

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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Beach—1.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4380) passed.

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

Eng. Com. Sub. for House Bill 4380—A Bill to amend and reenact §18-5-13 of the Code of West Virginia, 1931, as amended, relating to the transportation of students and passengers; allowing service employees to be certified to drive certain county board-owned vehicles that professional employees currently can be certified to drive to transport students for school-sponsored activities; requiring the vehicles to be insured; providing that 10 passenger limit of the vehicles includes the driver; increasing the number of these vehicles which may be used for any school-sponsored activity; allowing students to be transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver; allowing a guardian or other adult approved in writing by the parent or guardian to transport students in a privately owned vehicle; removing limit on the number of students that can be transported in a privately owned vehicle by a parent, guardian, or other adult approved in writing by the parent or guardian; and clarifying that busses shall be used to transport nineteen or more passengers.

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 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4426) passed with its title.

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

Eng. House Bill 4462, Relating to Deferred Retirement Option Plan evaluations.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4462) passed with its title.

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

Eng. Com. Sub. for House Bill 4489, Require counties to post open positions on statewide job bank.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4489) passed.

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

Eng. Com. Sub. for House Bill 4489—A Bill to amend and reenact §18A-2-7a of the Code of West Virginia, 1931, as amended, relating to including service and extracurricular personnel positions in the statewide job bank required to be established by the State Board of Education; and requiring county boards of education report certain information to the statewide job bank.

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

Eng. House Bill 4517, Relating to the repealing requirements to display video ratings.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4517) passed with its title.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in regular order, with the unreported Education committee amendments pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, 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, with the right to amend on third reading remaining in effect and with the unreported Education committee amendments pending.

Eng. Com. Sub. for House Bill 4631, Establishing a bone marrow and peripheral blood stem donation awareness 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 House Bill 4631 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4631) passed with its title.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Maroney, Clements, and Caputo as to the passage of Engrossed Committee Substitute for House Bill 4631 were ordered printed in the Appendix to the Journal.

Eng. House Bill 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4649) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

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

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

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

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

(a) (1) No person, except those hereinafter expressly exempted, may drive a motor vehicle upon a street or highway in this state or upon a subdivision street used by the public generally unless the person has a valid driver's license issued pursuant to this code for the type or class of vehicle being driven.

(2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the privilege thereby granted in the manner provided in this code and, except as otherwise provided by law, is not required to obtain any other license to exercise the privilege by a county, municipality, or local board or body having authority to adopt local police regulations.

(b) The division, upon issuing a driver's license, shall indicate on the license the type or general class or classes of vehicles the licensee may operate in accordance with this code, federal law, or rule. Licenses shall be issued in different colors for those drivers under age 18, those drivers age 18 to 21, and adult drivers. The commissioner is authorized to select and assign colors to the licenses of the various age groups.

(c) The following drivers' licenses classifications are hereby established:

(1) A Class A, B, or C license shall be issued to those persons 18 years of age or older with two years of driving experience who have qualified for the commercial driver's license established by chapter 17E of this code and the federal Motor Carrier Safety and Improvement Act of 1999 subsequent rules, and have paid the required fee.

(2) A Class D license shall be issued to those persons 18 years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of chapter 17E of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this code, it means the Class A, B, C, or D license described in this section or chapter 17E of this code or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of chapter 17E of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined in §17A-10-1 of this code, with a gross vehicle weight rating of less than 8,001 pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to persons who have qualified for a driver's license under the provisions of this chapter and who are not required to obtain a Class A, B, C, or D license and who have paid the required fee. The Class E license may be

endorsed under ~~the provisions of~~ §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under the age of 18 may also be endorsed with the appropriate graduated driver license level in accordance with ~~the provisions of~~ §17B-2-3a of this code.

(4) A Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided by this chapter and have paid the required fee but who do not possess a Class A, B, C, D, or E driver's license.

(5) A Class G driver's license or instruction permit shall be issued to a person using bioptic telescopic lenses who has successfully completed an approved driver training program and complied with all other requirements of §17B-2B-1 *et seq.* of this code.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, an organ donor, ~~as~~ deaf or hard-of-hearing, as having any other handicap or disability, or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the United States, according to criteria established by the division, if the licensee requests this information on the license. An honorably discharged veteran may be issued a replacement license without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

(e) No person, except those hereinafter expressly exempted, may drive a motorcycle on a street or highway in this state or on a subdivision street used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under §17A-2-17b of this code for motorcycle operation, or a valid motorcycle instruction permit.

(f) (1) An identification card may be issued to a person who:

(A) Is a resident of this state in accordance with ~~the provisions of~~ §17A-3-1a of this code;

(B) Has reached the age of two years or, for good cause shown, under the age of two;

(C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year: *Provided, however*, That no fees or charges, including renewal fees, are required if the applicant:

(i) Is 65 years or older;

(ii) Is legally blind; or

(iii) Will be at least 18 years of age at the next general, municipal, or special election and intends to use this identification card as a form of identification for voting; and

(D) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form ~~furnished~~ supplied by the division.

(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of 16. The division may issue an identification card without a photograph pursuant to subdivision (4) of this subsection. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her 21st birthday expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her 21st birthday expires 30 days after the licensee's 21st birthday.

(C) Every identification card issued to persons under the age of 16 shall be issued for a period of two years and expire on the last day of the month in which the applicant's birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended, or revoked under the provisions of this code.

(4) Notwithstanding the provisions of this article to the contrary, the division may issue an identification card without a photograph to an applicant who under oath or affirmation affirms, subject to the laws of perjury and on a form supplied by the division, that the applicant is a member of a recognized religious sect that has established tenets and teachings due to which the applicant is conscientiously opposed to posing for a photograph. The form supplied by the division pursuant to this subdivision shall advise the applicant that an identification card without a photograph may not be acceptable for all identification purposes.

(g) For any person over the age of 50 years who wishes to obtain a driver's license or identification card under the provisions of this section:

(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver's license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit fraud.

(h) A person over the age of 70 years, or who is on Social Security Disability, who wishes to obtain or renew a driver's license or identification card under the provisions of this section, may not be required to ~~furnish~~ supply a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:

(A) A form of military identification, including a DD214 or equivalent;

(B) A U.S. passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver's license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

(i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not

more than \$500 and, upon a second or subsequent conviction, shall be fined not more than \$500 or confined in jail not more than six months, or both fined and confined.

The bill (Eng. Com. Sub. for H. B. 2177), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

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

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

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

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

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

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

§22-2-10. Benefits derived from substances separated by treatment of pollution from mine drainage in the waters of the state; public policy; legislative findings, intent, and purpose; severability.

(a) *Public Policy.* It is the long-standing public policy of the State of West Virginia, pursuant to § 22-11-1 *et seq.* of this code, the Water Pollution Control Act, that the state is compelled to maintain reasonable standards of purity and quality of the waters of the state which are consistent with public health and the

protection of all forms of life. It is also the long-standing public policy of this state, pursuant to § 20-2-1 et seq. of this code, that wildlife resources in this state shall be held as a public trust by the state and protected for the use and enjoyment of its citizens.

(b) *Legislative Findings, Intent, and Purpose.* The Legislature finds that treatment of mine drainage reduces environmental harm by reducing toxic substances and pollution in the waters of the state. The Legislature finds that the necessary and expensive treatment of mine drainage to remove pollution from the waters of the state, and disposal of the same, may produce materials that contain valuable concentrations of rare earth elements, critical materials, and other substances which may be utilized for commercial gain. The Legislature finds that these materials found within the waters of the state are part of the water and can only be separated from the water with expensive and continuing investments of resources which may last for decades. The Legislature enacts this section with the intent of fulfilling the state's obligations to maintain reasonable standards of purity and quality of the waters of the state, consistent with public health and the protection of all forms of life, by encouraging investments into the treatment of mine drainage.

(c) Notwithstanding any provision of this code or common law to the contrary, all chemical compounds, elements, and other potentially toxic materials which are found within the waters of this state, which are derived from the treatment of mine drainage, and which have economic value, may be used, sold, or transferred by the Department of Environmental Protection, or its designee, for commercial gain and benefit. All funds received by the department shall be deposited at the discretion of the secretary into the Special Reclamation Water Trust Fund or the Acid Mine Drainage Set-Aside Fund, and used by the department to fulfill its obligations under this code: *Provided*, That nothing in this subsection shall be construed to interfere with any existing contract or the ability of the department to enter into an agreement with private parties with respect to the removal, sale, or transfer of said chemical compounds, elements, and other potentially toxic materials.

(d) Notwithstanding any provision of this code or common law to the contrary, all chemical compounds, elements, and other potentially toxic materials which are found within the waters of this state which are derived from the treatment of mine drainage, and which have economic value, may be used, sold, or transferred by any party, other than the department, who successfully removes said chemical compounds, elements, and other potentially toxic materials from the waters of this state for commercial gain and benefit: *Provided*, That nothing in this subsection shall be construed to interfere with any existing contract or the ability of parties to enter into an agreement with respect to the removal, sale, or transfer of said chemical compounds, elements, and other potentially toxic materials.

(e) The provisions of this section are severable, and if any part of this section is adjudged to be unconstitutional, unenforceable, or invalid, that determination does not affect the continuing validity of the remaining provisions of this section.

The bill (Eng. Com. Sub. for H. B. 4003), as amended, was then ordered to third reading.

Eng. House Bill 4019, Relating to deadlines for public charter schools.

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

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

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

Eng. Com. Sub. for House Bill 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

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

Eng. Com. Sub. for House Bill 4295, To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

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

At the request of Senator Azinger, as chair of the Committee on Banking and Insurance, and by unanimous consent, the unreported Banking and Insurance committee amendments to the bill were withdrawn.

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

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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-20b. Continuation of the State Office of the National Flood Insurance Program; transfer to the Division of Emergency Management; funding; responsibilities.

(a) The Legislature, finding that the National Flood Insurance Program is a voluntary federal program under which federal flood insurance is made available to participating communities and is of vital importance to the citizens of West Virginia, does hereby continue the State Office of the National Flood Insurance Program. Effective July 1, 2022, the State Office of the National Flood Insurance Program shall transfer from the Offices of the Insurance Commissioner to the Division of Emergency Management established pursuant to §15-5-3 of this code. The Division of Emergency Management shall provide office space, equipment,

and supplies for the State Office of the National Flood Insurance Program, which shall be funded, in part, from the special revenue fund established in §33-3-14(c) of this code.

(b) The State Office of the National Flood Insurance Program shall issue guidance and instructions as necessary to administer the program effectively. The State Office of the National Flood Insurance Program shall offer and conduct training as required by §15-5-20a of this code and adopt adequate land use and development criteria that are consistent with the minimum standards established by the National Flood Insurance Program. The State Office of the National Flood Insurance Program shall be under the supervision of the Director of the Division of Emergency Management who shall employ staff as needed to operate the program.

(c) The Director of the Division of Emergency Management may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as necessary to administer the State Office of the National Flood Insurance Program and any of the program's responsibilities. Any state-owned property located in a non-participating local community shall be governed by rules proposed by the Director of the Division of Emergency Management.

(d) The State Office of the National Flood Insurance Program, in consultation with the Director of the Division of Emergency Management, and with the assistance of floodplain managers around the state, shall develop and publish a strategic plan to establish shared goals, define a path to meet those goals, and shall invite other governmental units to adopt these goals and objectives. The strategic plan shall be initially presented by the Director of the Division of Emergency Management to the State Resiliency Officer and to the State Resiliency Office Board who shall review and approve the strategic plan, and that plan shall be so presented and approved no less than biannually thereafter. The strategic plan shall be made available to the public.

(e) The State Office of the National Flood Insurance Program shall establish floodplain management guidelines for any state

property in special hazard areas which, at a minimum, satisfy the criteria set forth in 44 CFR §§60.3, 60.4, and 60.5 (2022).

(f) Notwithstanding any other provision of this code to the contrary, the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

CHAPTER 33. INSURANCE.

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-23. ~~Creation~~ Transfer of assets of the State Office of the National Flood Insurance Program; responsibilities.

~~(a) The Legislature, finding that the National Flood Insurance Program is a voluntary federal program under which federal flood insurance is made available to participating communities is of vital importance to the citizens of West Virginia, does hereby create the State Office of the National Flood Insurance Program, to be housed in the office of the Insurance Commissioner of West Virginia, and which office shall administer this program.~~

~~(b) The State Office of the National Flood Insurance Program shall have a coordinator who shall issue such regulations, guidance, and instructions as necessary to effectively administer the program. The coordinator shall conduct trainings and will adopt and enforce adequate land use and development criteria that are consistent with the minimum standards established by the National Flood Insurance Program and shall report to the Insurance Commissioner.~~

~~(c) Any state-owned property that is located in a nonparticipating local community will be governed by the rules promulgated by the Insurance Commissioner and filed in the Code of State Rules.~~

~~(d) The coordinator, in consultation with the Insurance Commissioner, and with the assistance of floodplain managers around the state, shall develop and publish a strategic plan to establish shared goals, define a path to meet those goals, and shall invite other governmental units to adopt these goals and objectives.~~

~~The strategic plan shall be initially presented by the Coordinator to the State Resiliency Officer and to the State Resiliency Office Board who shall review and approve the strategic plan, and that plan shall be so presented and approved no less than biannually thereafter. The strategic plan shall be made available to the public.~~

~~(e) The coordinator shall establish and enforce flood plain management regulations for any state property in special hazard areas which, at a minimum, satisfy the criteria set forth in 44 CFR §§60.3, 60.4, and 60.5 (2019).~~

~~(f) Notwithstanding any other provision of this code to the contrary, the coordinator shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties~~

Effective July 1, 2022, the assets of the State Office of the National Flood Insurance Program, which Office has been transferred to the Division of Emergency Management pursuant to §15-5-20b of this code, are hereby assigned and transferred to the Division of Emergency Management. The Director of the Division of Emergency Management may decline certain assets from being transferred pursuant to this section if he or she believes the assets are unnecessary for the proper operation of the State Office of the National Flood Insurance Program.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-14. Annual financial statement and premium tax return; remittance by insurer of premium tax, less certain deductions; special revenue fund funds created.

(a) Every insurer transacting insurance in West Virginia shall file with the commissioner, on or before March 1, each year, a financial statement made under oath of its president or secretary and on a form prescribed by the commissioner. The insurer shall also, on or before March 1 of each year subject to the provisions of §33-3-14c of this code, under the oath of its president or secretary, make a premium tax return for the previous calendar year on a form

prescribed by the commissioner showing the gross amount of direct premiums, whether designated as a premium or by some other name, collected, and received by it during the previous calendar year on policies covering risks resident, located, or to be performed in this state and compute the amount of premium tax chargeable to it in accordance with the provisions of this article, deducting the amount of quarterly payments as required to be made pursuant to the provisions of §33-3-14c of this code, if any, less any adjustments to the gross amount of the direct premiums made during the calendar year, if any, and transmit with the return to the commissioner a remittance in full for the tax due. The tax is the sum equal to two percent of the taxable premium and also includes any additional tax due under §33-3-14a of this code. All taxes, except those received on write your own federal flood insurance premium taxes or private market flood insurance premium taxes, received by the commissioner shall be paid into the insurance tax fund created in §33-3-14(b) of this code. ~~Provided, That no later than June 30 of each year, \$1,667,000 of the portion of taxes received by the commissioner from insurance policies for medical liability insurance as defined in §33-20F-3 of this code and from any insurer on its medical malpractice line shall be temporarily dedicated to replenishing moneys appropriated from the tobacco settlement account pursuant to §4-11A-2(c) of this code. Upon determination by the commissioner that these moneys have been fully replenished to the tobacco settlement account, the commissioner shall resume depositing taxes received from medical malpractice premiums as provided in §33-3-14(b) of this code~~

(b) There is created in the State Treasury a special revenue fund, administered by the treasurer, designated the "insurance tax fund". This fund is not part of the General Revenue Fund of the state. It consists of all amounts deposited in the fund pursuant to §33-3-14(a), §33-3-14a, §33-3-15, and §33-3-17 of this code, ~~except those received on write your own federal flood insurance premium taxes~~, any appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund: Provided, That this subsection shall not apply to funds received on federal flood insurance premium taxes or private market flood insurance premium taxes, which are subject

to §33-3-14(c) of this code. The treasurer shall, no later than the last business day of each month, transfer amounts from the insurance tax fund to the General Revenue Fund that the treasurer determines are not necessary for making premium tax refunds under this article or §33-43-1 et seq. of this code.

~~(e) After the transfers authorized in this section, the treasurer shall, no later than the last business day of each month, transfer amounts the treasurer determines are not necessary for making refunds under this article to the credit of the General Revenue Fund~~

~~(d)~~ (c) There is created in the State Treasury a special revenue fund, administered by the treasurer, designated the "flood insurance tax fund". This fund is not part of the General Revenue Fund of the state. All taxes collected pursuant to §33-3-14(a) of this code from federal flood insurance policy premium taxes or private market flood insurance premium taxes shall be deposited into the flood insurance tax fund. The flood insurance tax fund shall contain collections, any appropriations to the fund, and any gifts, grants, and contributions received. The Treasurer shall distribute funds from the flood insurance tax fund for the operations and responsibilities of the State Office of the National Flood Insurance Program, as provided in §15-5-20b of this code, for activities that promote and enhance floodplain management issues, and for subgrants to local units of government and other eligible entities after full consideration of the recommendations of the Division of Emergency Management.

~~(e) The treasurer is restricted to, and shall distribute from, the flood insurance tax fund for activities which promote and enhance flood plain management issues, and for subgrants to local units of government and other eligible entities after full consideration of the recommendations of the Office of Emergency Services~~

§33-3-14a. Additional premium tax.

For the purpose of providing additional revenue for the state General Revenue Fund, there is hereby levied and imposed, in addition to the taxes imposed by §33-3-14 of this code, an additional premium tax equal to one percent of taxable premiums. Except as

otherwise provided in this section, all provisions of this article relating to the levy, imposition, and collection of the regular premium tax imposed by §33-3-14 of this code shall be applicable to the levy, imposition, and collection of the additional tax imposed by this section. All moneys received from the additional tax imposed by this section, less deductions allowed by this article or §33-43-1 et seq. of this code for refunds and for costs of administration, shall be received by the commissioner and shall be paid by him or her into the State Treasury in accordance with §33-3-14(b) of this code for the benefit of the ~~state fund~~ General Revenue Fund; *Provided, That each year, the first \$833,000 of the portion of taxes received by the commissioner from insurance policies for medical liability insurance as defined in section three, article twenty-f of this chapter and from any insurer on its medical malpractice line, shall be temporarily dedicated to replenishing moneys appropriated from the tobacco settlement account pursuant to subsection (e), section two, article eleven-a of chapter four of this code* moneys received pursuant to this section pertaining to federal flood insurance policy premium taxes or private market flood insurance premium taxes shall be deposited and distributed in accordance with §33-3-14(c) of this code. ~~Upon determination by the commissioner that these moneys have been fully replenished to the tobacco settlement account, the commissioner shall resume depositing taxes received from medical malpractice premiums as provided herein.~~

The bill (Eng. Com. Sub. for H. B. 4295), as amended, was then ordered to third reading.

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Rucker, Takubo, and Trump—3.

Engrossed Committee Substitute for House Bill 4295 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Rucker and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4295) passed.

At the request of Senator Azinger, as chair of the Committee on Banking and Insurance, and by unanimous consent, the unreported Banking and Insurance committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4295—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-20b; to amend and reenact §33-2-23 of said code; and to amend and reenact §33-3-14 and §33-3-14a of said code, all relating to the State Office of the National Flood Insurance Program; transferring the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; authorizing the Director of the Division of Emergency Management to employ staff for the State Office of the National Flood Insurance Program; granting rule-making authority to the Division of Emergency Management; providing that state-owned

property in any nonparticipating community shall be governed by rules proposed by the Division of Emergency Management; requiring the State Office of the National Flood Insurance Program and floodplain managers to develop a strategic plan to meet goals and objectives, which shall be reviewed and approved by the State Resiliency Officer and State Resiliency Board; requiring the State Office of the National Flood Insurance Program to establish floodplain management guidelines in special hazard areas which are in conformity with federal regulations; providing the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; transferring the assets of the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; deleting obsolete language concerning temporary tax dedication to the tobacco settlement account; providing that private market flood insurance premium taxes be treated like federal flood insurance premium taxes; correcting terminology; clarifying that the additional premium tax applies to flood insurance premiums; and requiring the State Treasurer to distribute funds from the flood insurance tax fund to finance the operations and responsibilities of the State Office of the National Flood Insurance Program and for subgrants.

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

The Senate proceeded to the thirteenth order of business.

Senator Blair (Mr. President) announced the replacement of Senator Takubo on the Committee on the Judiciary with Senator Blair (Mr. President). Senator Blair (Mr. President) then announced the replacement of Senator Takubo on the Committee on Finance with Senator Blair (Mr. President).

At the request of Senator Woelfel, unanimous consent being granted, Senator Woelfel addressed the Senate regarding Engrossed Committee Substitute for House Bill 4344 (*Relating to foster care*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 12:33 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:27 p.m. and, at the request of Senator Weld, unanimous consent being granted, returned to the ninth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4406, To establish the West Virginia Military Hall of Fame.

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

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

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

ARTICLE 5. WEST VIRGINIA MILITARY HALL OF FAME.

§9A-5-1. West Virginia Military Hall of Fame.

(a)(1) The secretary shall create a West Virginia Military Hall of Fame with the mission to honor veterans of West Virginia who have distinguished themselves on the field of battle and who have also made significant contributions to the state or their communities following their military service. The honorees must:

(A) Have been honorably discharged or separated under honorable conditions from the Armed Forces of the United States and be of good moral character; and

(B) Be natural born citizens of West Virginia; or

(C) Entered into or have been discharged from the Armed Forces in West Virginia; or

(D) Have resided in West Virginia for at least 8 years.

(2) Nominations shall include a nomination form approved by the secretary, a DD214 or other supporting Department of Defense personnel records, or national or state archive records substantiating the nominee's military service, and a copy of any citation received, including any supporting documentation.

(b) In order to be considered, a nominee must have been awarded any of the following during his or her time in service:

(1) Medal of Honor;

(2) Army Distinguished Service Cross;

(3) Navy Cross;

(4) Air Force Cross;

(5) Coast Guard Cross;

(6) Silver Star;

(7) Distinguished Flying Cross;

(8) Bronze Star Medal with "V" Device;

(9) Air Medal with "V" Device;

(10) Commendation Medal With "V" Device;

(11) Joint Service Achievement Medal With "V" Device; or

(12) Purple Heart.

(c) There shall be created the West Virginia Military Hall of Fame Board consisting of seven members who shall be residents of this state and who have served in and been honorably discharged or separated under honorable conditions from the Armed Forces of the United States. In addition to the seven members of the board, the secretary shall be an *ex officio* member and shall serve as its chair.

(d) Where feasible, members of the board shall be veterans who are active in the veteran community, with consideration given to ensure a diverse representation of service branches in board membership. Additionally, no more than four members shall be from the same congressional district.

(e) The secretary shall promulgate rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement the purpose and mission of the Military Hall of Fame.

The bill (Eng. Com. Sub. for H. B. 4406), as amended, was then ordered to third reading.

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, and Takubo—3.

Engrossed Committee Substitute for House Bill 4406 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, and Takubo—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. 4406) 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 4418, Relating to the Small Business Supplier Certification Assistance Program.

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

Eng. Com. Sub. for House Bill 4420, To modify definitions of school bus operators.

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

Eng. Com. Sub. for House Bill 4430, Relating to definitions of base salary and overtime for police and firemen pensions.

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

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

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

Eng. Com. Sub. for House Bill 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

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

At the request of Senator Weld, and by unanimous consent, the bill was advanced to third reading with the unreported Economic Development committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

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

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

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

Eng. House Bill 4578, Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Plymale, Swope, and Takubo—4.

Engrossed House Bill 4578 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson,

Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4578) passed with its title.

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

Eng. Com. Sub. for House Bill 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

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

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

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

ARTICLE 1. GENERAL PROVISIONS.

§39B-1-106. Validity of power of attorney.

(a) A power of attorney executed in this state on or after the effective date of this act is valid if its execution complies with ~~section one hundred five of this article.~~ §39B-1-105 of this code.

(b) A power of attorney executed in this state before the effective date of this act is valid if its execution complied with the law of this state as ~~it~~ that existed at the time of execution.

(c) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(1) The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to §39B-1-107 of this code; or

(2) The requirements for a military power of attorney pursuant to 10 U. S. C. §1044b.

(d) Except as otherwise provided by statute other than this act, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

(e) Notwithstanding the provisions of §39B-1-102 of this code, the fact that a person is either detained, including being incarcerated in a penal system, or is outside the United States and unable to return, does not create an inference that the person lacks the capacity to execute a power of attorney.

The bill (Eng. Com. Sub. for H. B. 4583), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

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

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

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

**CHAPTER 15A. DEPARTMENT OF HOMELAND
SECURITY.**

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of

not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) Search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) Notwithstanding any provision of this article to the contrary, The the Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(d) State parole officers, in recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C §926B.

(e) Any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. § 926B if the following criteria are met:

(1) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes;

(2) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(3) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.

(f) Any policy instituted pursuant to this subsection shall include provisions which:

(1) Preclude or remove a person from participation in the concealed firearm program;

(2) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(g) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(h) It is the intent of the Legislature in enacting the amendments to this section during the 2022, regular session of the Legislature to authorize those state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(i) The privileges authorized by the amendments in this section enacted during the 2022, regular session of the Legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

For the purposes of this article, unless a different meaning clearly appears in the context:

(1) "Approved law-enforcement training academy" means any training facility which is approved and authorized to conduct law-enforcement training as provided in this article;

(2) "Chief executive" means the Superintendent of the State Police; the chief Natural Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief natural resources police officer of the Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement agency;

(3) "County" means the 55 major political subdivisions of the state;

(4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above;

(5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's committee" means the Governor's

Committee on Crime, Delinquency, and Correction established as a state planning agency pursuant to §15-9-1 of this code;

(6) "Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons employed by the Public Service Commission as motor carrier inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws, although those institutions and agencies may not be considered law-enforcement agencies. The term also includes those persons employed as county litter control officers charged with enforcing litter laws: *Provided*, That those persons have been trained and certified as law-enforcement officers and that certification is currently active. The term also includes those persons employed as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code, although no resort area district may be considered a law-enforcement agency: *Provided, however*, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law-enforcement officer" does not apply to the chief executive of any West Virginia law-enforcement agency, ~~or~~ nor to any watchman or special natural resources police officer;

(7) "Law-enforcement official" means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

(8) "Municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

(9) "Pre-certified law-enforcement officer" means a person employed or offered employment by a West Virginia law-enforcement agency prior to his or her initial certification by the

subcommittee. This term does not include a person employed or offered employment by a West Virginia law-enforcement agency whose certification status is inactive, suspended, or has been revoked;

(10) "Subcommittee" or "law-enforcement professional standards subcommittee" means the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created by §30-29-2 of this code; and

(11) "West Virginia law-enforcement agency" means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service Commission nor any state institution of higher education, nor any hospital, nor any resort area district is a law-enforcement agency.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law-enforcement official under this chapter~~

(b) In recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, state juvenile probation officers are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

(c) Any state juvenile probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. § 926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing a state juvenile probation officer to carry a concealed firearm for self-defense purposes;

(2) There shall be in place in the Supreme Court of Appeals a requirement that state juvenile probation officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state juvenile probation officers as law-enforcement employees as that term is contemplated by 18 U.S.C. § 926B.

(d) Any policy instituted pursuant to this subsection includes provisions which:

(1) Preclude or remove a person from participation in the concealed firearm program;

(2) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(e) Any state juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(f) It is the intent of the Legislature in enacting the amendments to this section during the 2022, regular session of the Legislature to authorize state juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(g) The privileges authorized by the amendments to this section enacted during the 2022, regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

~~(b)~~ (h) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(e)~~(i) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally, and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and

time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

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

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools

Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

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

(B) Any probation officer appointed pursuant to §62-12-5 of this code or state juvenile probation officer appointed pursuant to §49-4-719 chapter 49 of this code, in the performance of his or her duties;

(C) Any home confinement supervisor employed by a county commission pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or her official duties;

~~(E)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. § 926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(F)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

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

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

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

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

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

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

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

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

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

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

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the

commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

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

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

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

(2) This subsection does not apply to:

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

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

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

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

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

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

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-7b. Home incarceration supervisors deemed qualified law-enforcement officers as that term is used in 18 U.S.C. §926B.

(a) Notwithstanding any other provision of this code, for purposes of this section it is hereby recognized that home

incarceration is a form of confinement as that term is used in 18 U.S.C. § 926B.

(b) In recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, home incarceration supervisors, are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

(c) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. § 926B if the following criteria are met:

(1) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(2) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(3) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program of §30-29-12 of this code.

(d) Any policy instituted pursuant to subsection (b) of this section shall include provisions which:

(1) Preclude or remove a person from participation in the concealed firearm program;

(2) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm; and

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(e) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(f) The privileges authorized by the amendments to this section enacted during the 2022, regular session of the Legislature are wholly within the discretion of the supervising authority over the home incarceration supervisors.

(g) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants ~~so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct, and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her

assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer, or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects, or supersedes the appointment or tenure of any probation officer, medical assistant, or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is—authorized~~ may ~~to~~ hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, state

probation officers are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

(i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. § 926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(2) There is in place a requirement that the state probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(j) Any policy instituted pursuant to this subsection shall include provisions which:

(1) Preclude or remove a person from participation in the concealed firearm program;

(2) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(k) Any state probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(l) It is the intent of the Legislature in enacting the amendments to this section during the 2022 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(m) The privileges authorized by the amendments to this section enacted during the 2022 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

§62-12-6. Powers and duties of probation officers.

(a) Each probation officer shall:

(1) Investigate all cases which the court refers to the officer for investigation and shall report in writing on each case;

(2) Conduct a standardized risk and needs assessment, using the instrument adopted by the Supreme Court of Appeals of West Virginia, for any probationer for whom an assessment has not been conducted either prior to placement on probation or by a specialized assessment officer. The results of all standardized risk and needs assessments are confidential;

(3) Supervise the probationer and enforce probation according to assessment and supervision standards adopted by the Supreme Court of Appeals of West Virginia;

(4) Furnish to each person released on probation under the officer's supervision a written statement of the probationer's conditions of probation together with a copy of the rules prescribed by the Supreme Court of Appeals;

(5) Stay informed concerning the conduct and condition of each probationer under the officer's supervision and report on the conduct and condition of each probationer in writing as often as the court requires;

(6) Use all practicable and suitable methods to aid and encourage the probationer to improve his or her conduct and condition;

(7) Perform random drug and alcohol testing on probationers under his or her supervision as directed by the circuit court;

(8) Maintain detailed work records; and

(9) Perform any other duties the court requires.

(b) The probation officer may, with or without an order or warrant, arrest any probationer as provided in section 10 of this article, and arrest any person on supervised release when there is reasonable cause to believe that the person on supervised release has violated a condition of release. A person on supervised release who is arrested shall be brought before the court for a prompt and summary hearing.

(c) Notwithstanding any provision of this code to the contrary:

(1) Any probation officer appointed on or after July 1, 2002, may carry handguns in the course of the officer's official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency and Correction. The qualifications shall include the successful completion of handgun training, which is comparable to the handgun training provided to law-enforcement officers by the State Police and includes a minimum of four hours' training in handgun safety.

(2) Probation officers may only carry handguns in the course of their official duties after meeting the specialized qualifications set forth in subdivision (1) of this subsection.

~~(3) Nothing in this subsection includes probation officers within the meaning of law enforcement officers as defined in section one, article twenty nine, chapter thirty of this code.~~

(d) The Supreme Court of Appeals of West Virginia may adopt a standardized risk and needs assessment with risk cut-off scores for use by probation officers, taking into consideration the assessment instrument adopted by the Division of Corrections and Rehabilitation under subsection (h), section 13 of this article and the responsibility of the Division of Justice and Community Services to evaluate the use of the standardized risk and needs

assessment. The results of any standardized risk and needs assessment are confidential.

The bill (Eng. Com. Sub. for H. B. 4596), as amended, was then ordered to third reading.

Eng. House Bill 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

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

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

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

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

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

ARTICLE 6. BOARD OF FUNERAL SERVICE EXAMINERS.

§30-6-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

"Alkaline hydrolysis" means the reduction of a dead human body to essential elements through a water-based dissolution process using alkaline chemicals, heat, agitation, and pressure to accelerate natural decomposition; the processing of hydrolyzed remains after removal from the alkaline hydrolysis vessel; placement of the processed remains in a hydrolyzed remains container; and release of the hydrolyzed remains to an appropriate party. Alkaline hydrolysis is a form of final disposition.

(a) "Apprentice" means a person who is preparing to become a licensed funeral director ~~or a funeral service licensee and embalmer~~ and is learning the practice of embalming, funeral directing, or cremation under the direct supervision and personal instruction of a duly licensed ~~embalmer or funeral director~~ funeral service licensee.

(b) "Authorized representative" means a person legally authorized or entitled to order the cremation or burial of the deceased, as established by rule. An authorized representative may include in the following order of precedence:

(1) (a) The deceased, who has expressed his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive, or preneed funeral contract, as defined in §45-14-2 of this code;

(2) (b) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death;

(3) (c) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time;

(4) (d) The deceased's next of kin;

(5) (e) A court order;

(6) (f) A public official who is charged with arranging the final disposition of an indigent deceased; or

(7) (g) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science.

(e) "Board" means the West Virginia Board of Funeral Service Examiners.

(d) "Certificate" means a certification by the board to be a crematory operator.

(e) "Courtesy card holder" means a person who only practices funeral directing periodically in West Virginia and is a licensed embalmer and funeral director in a state which borders West Virginia.

(f) "Cremated remains" or "cremains" means all human remains, including foreign matter cremated with the human, recovered after the completion of cremation.

(g) "Cremation" means the mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments and then further reduced by additional pulverization, burning, or re-cremating when necessary.

(h) "Crematory" means a licensed place of business where a deceased human body is reduced to ashes and bone fragments. ~~and includes a crematory that stands alone or is part of or associated with a funeral establishment~~

(i) "Crematory operator" means a person certified by the board to operate a crematory.

(j) "Crematory operator in charge" means a certified crematory operator who accepts responsibility for the operation of a crematory.

(k) "Deceased" means a dead human being for which a death certificate is required.

(l) "Embalmer" means a person licensed to practice embalming.

(m) "Embalming" means the practice of introducing chemical substances, fluids, or gases used for the purpose of preservation or disinfection into the vascular system or hollow organs of a dead human body by arterial or hypodermic injection for the restoration of the physical appearance of a deceased.

(n) "Funeral" means a service, ceremony, or rites performed for the deceased with a body present.

(o) "Funeral directing" means the business of engaging in the following:

(1) (a) The shelter, custody, or care of a deceased;

(2) ~~The preparation of a deceased for burial or other disposition~~

(3) (b) The arranging or supervising of a funeral or memorial service for a deceased; and

(4) (c) The maintenance of a funeral establishment for the preparation, care, or disposition of a deceased.

(p) "Funeral director" means a person licensed to practice funeral directing.

(q) "Funeral establishment" means a licensed place of business devoted to the care, preparation, and arrangements for the transporting, embalming, funeral, burial, or other disposition of a deceased. A funeral establishment can include a licensed crematory.

(r) "Funeral service licensee" means a person licensed after July 1, 2003, to practice embalming and funeral directing.

(s) "License" means a license, which is not transferable or assignable, to:

(1) (a) Practice embalming and funeral directing; and,

(2) (b) Operate a crematory or a funeral establishment.

(t) "Licensee" means a person holding a license issued under the provisions of this article.

(u) "Licensee in charge" means a licensed embalmer and funeral director who accepts responsibility for the operation of a funeral establishment.

(v) "Memorial service" means a service, ceremony, or rites performed for the deceased without a body present.

(w) "Mortuary" means a licensed place of business devoted solely to the shelter, care, and embalming of the deceased.

(x) "Person" means an individual, partnership, association, corporation, not-for-profit organization, or any other organization.

(y) "Registration" means a registration issued by the board to be an apprentice to learn the practice of embalming, funeral directing, or cremation.

(z) "State" means the State of West Virginia.

§30-6-8. Embalmer license requirements.

(a) The board shall issue a license to practice embalming to an applicant who:

(1) ~~(a) Is of good moral character~~ Is free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of this code;

(2) (b) Is 18 years of age or over;

(3) (c) Is a citizen of the United States or is eligible for employment in the United States;

(4) (d) Has a high school diploma or its equivalent;

(5) (e) Has completed one of the following education requirements, as evidenced by a transcript submitted to the board for evaluation:

~~(A) (i)~~ (1)(A) Has an associate degree from an accredited college or university; or

~~(ii)~~ (2) Has successfully completed at least 60 semester hours or 90 quarter hours of academic work in an accredited college or university toward a baccalaureate degree with a declared major field of study; and

~~(iii)~~ (3) Has graduated from a school of mortuary science, accredited by the American Board of Funeral Service Education, Inc., which requires as a prerequisite to graduation the completion of a course of study of not less than 12 months; or

(B) Has a bachelor degree in mortuary science from an accredited college or university;

~~(6)~~ (f) Has completed a one-year apprenticeship, under the supervision of a licensed embalmer and funeral director actively and lawfully engaged in the practice of embalming and funeral directing in this state, which apprenticeship consisted of:

(A) (1) Diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment; and

~~(B)~~ (2) The apprentice taking an active part in:

(i) (A) The operation of embalming not less than 35 dead human bodies; and

(ii) (B) Conducting not less than 35 funeral services;

~~(7)~~ (g) Passes, with an average score of not less than 75 percent, the following examinations:

~~(A) (1) The National Conference of Funeral Services~~ International Conference of Funeral Service Examining Boards examination at a testing site provided by the national conference, which passage is a condition precedent to taking the state law examination;

~~(B) The state law examination administered by the board, which examination must be offered at least twice each year~~

~~(B) (2) The West Virginia Laws, Rules, and Regulations Examination, administered by the International Conference of Funeral Service Examining Boards;~~ and

~~(C)~~ (3) Any other examination required by the board; and

~~(8)~~ (h) Has paid all the appropriate fees.

~~(b)~~ A license to practice embalming issued by the board prior to July 1, 2012, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license issued prior to July 1, 2012, must renew the license pursuant to the provisions of this article.

§30-6-9. Funeral director license requirements.

(a) The board shall issue a license to practice funeral directing to an applicant who meets the following requirements:

~~(1) Holds an embalmer's license issued by the board; and~~

(1) Completed a bachelor's degree from an accredited institution; and

(2) Completed a two-year apprenticeship under the supervision of a licensee in charge or an active licensed funeral director; and

~~(2)~~ (3) Has paid all the appropriate fees.

(b) The two-year apprenticeship must consist of the following work:

(1) Diligent attention to the work in the course, or regular and steady employment, and not as a side issue to another employment;

(2) Conducting not less than 35 disposition arrangements for individuals;

(3) Conducting not less than 35 funeral and/or memorial services; and

(4) Passes with an average score of not less than 75 percent, the West Virginia Laws, Rules, and Regulations Examination.

~~(b)~~ (c) A license to practice funeral directing issued by the board prior to July 1, 2002, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding

a license issued prior to July 1, ~~2002~~ 2022, must renew the license pursuant to the provisions of this article.

§30-6-15. Continuing education.

~~(a) The board shall conduct annually a school of instruction to apprise funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. This school shall qualify as continuing education and shall fulfill as many continuing education required hours as the board specifies. Qualified lecturers and demonstrators may be employed by the board for this purpose. The board shall give notice of the time and place at which the school will be held for all licensed funeral directors and embalmers: *Provided*, That the location of any school of continuing education shall accommodate the geographic diversity of the embalmers and funeral directors of this state~~

~~(b)~~ (a) Hours of continuing education may be obtained by attending and participating in board-approved programs, meetings, seminars, or activities. It is the responsibility of each licensee to finance his or her costs of continuing education.

~~(c)~~ (b) Compliance with the requirements of continuing education, as specified by the board, is a prerequisite for license renewal.

§30-6-16. Inspector and inspection requirements.

(a) All inspectors employed by the board to inspect funeral establishments and crematories, pursuant to the provisions of this article, shall have a West Virginia embalmer's license and a West Virginia funeral director's license.

(b) Each inspector shall inspect a specific region, as designated by the board. Any person being employed as an inspector is prohibited from inspecting in the region in which he or she practices. If there is only one inspector, a board member, who is not from the region where the inspector practices, is authorized to inspect the facilities in the region where the inspector practices.

(c) All inspections shall be conducted in a manner so as not to interfere with the conduct of business within the funeral establishment or crematory. The board has the authority to enter, at all reasonable hours, for the purpose of inspecting the premises in which the business of embalming, funeral directing, or cremating is conducted.

(d) All of an inspector's expenses, per diem, and compensation shall be paid out of the receipts of the board, but the allowances shall at no time exceed the receipts of the board.

(e) The board is authorized to set fees for inspections: *Provided*, That there shall be no fee for ~~an annual~~ a biennial inspection, based on the funeral establishment's renewal date.

§30-6-17. Apprenticeship.

(a) After ~~January 1, 2003~~ July 1, 2022, the board shall issue a registration to be an apprentice ~~funeral director or apprentice embalmer~~ funeral service licensee to an applicant who meets the following requirements:

(1) ~~Is of good moral character and temperate habits~~ Is free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of this code;

(2) Is 18 years of age or over;

(3) ~~A~~ Is a citizen of the United States or be eligible for employment in the United States;

(4) Has a high school diploma or its equivalent;

(5) ~~Has completed one of the education requirements for an embalmer's license, as set out in subdivision (5), subsection (a), section eight of this article;~~

(6) ~~Is not attending school and will not be attending school during the apprenticeship period;~~

(5) The required 60 semester hours or 90 quarter hours of college or university credits and mortuary school can be completed prior to, during, or after the apprenticeship; and

~~(7)~~ (6) Has paid the appropriate fees.

(b) Any person that commences an apprenticeship prior to January 1, 2003, may continue to serve such apprenticeship and is not subject to the requirements set forth in this section, but is subject to board approval.

(c) The board may set the requirements for an apprenticeship, including the manner in which it shall be served and the length of time, which shall not be more than one year for a funeral service licensee and shall not be more than two years for a funeral director.

(d) No licensed funeral director or licensed embalmer shall be permitted to register or have registered more than five apprentices under his or her license at the same time.

§30-6-19. Funeral establishment to be managed by a licensee in charge; license displayed.

(a) Every separate funeral establishment in this state offering the services set forth in this article shall be operated under the supervision and management of a licensee in charge who is licensed as a funeral director in this state who shall hold an active:

(1) Funeral Service licensee's license in the State of West Virginia;

(2) Embalmers license in the State of West Virginia;

(3) Crematory Operator certificate in the State of West Virginia; and

(4) Pre-Need license in the State of West Virginia.

(b) Each separate funeral establishment in this state offering the services set forth in this article shall have its own license, which license shall be prominently displayed within the funeral establishment.

(c) All funeral establishments shall display in all advertising the name of the licensee in charge of the establishment.

(d) All funeral establishments shall prominently display within the funeral establishment the license of the licensee in charge.

(e) A licensee in charge shall supervise each separate establishment.

(f) Effective July 1, 2022, the board shall allow up to two years to complete the requirements under this section for the licensee in charge.

§30-6-20. Crematory license requirements.

(a) Every crematory shall be licensed in West Virginia. The board shall issue a crematory license to an applicant who meets the following requirements:

(1) The place of business has been approved by the board as having met all the requirements and qualifications to be a crematory as are required by this article;

(2) The crematory conforms with all local building codes;

(3) The crematory meets all applicable environmental standards;

(4) Notify the board, in writing, at least 30 days before the proposed opening date so there can be an inspection of the crematory;

(5) Show proof that the crematory passed the inspection;

(6) Have a certified crematory operator in charge;

(7) Pay all the appropriate fees; and

(8) Complete such other requirements as specified by the board.

(b) All crematory licenses must be renewed biennially, by a staggered schedule, upon or before July 1, and pay a renewal fee.

(c) Each crematory license shall be valid for only one crematory to be located at a specific street address. There shall be a separate license issued and a separate fee assessed to operate additional crematories by the same applicant.

(d) A holder of a crematory license that fails to pay fees for either the principal crematory or additional crematories by July 1, of the renewal year is subject to a penalty, a reinstatement fee for each crematory, and the required renewal fee.

(e) The holder of a crematory license who ceases to operate the crematory at the location specified in the application shall, within 20 days thereafter, surrender the crematory license to the board and the license shall be canceled by the board. In the event of the death of an individual who was the holder of a crematory license, it shall be the duty of the holder's personal representative to surrender the crematory license within 120 days of qualifying as the personal representative.

(f) A holder of a certificate to operate a crematory whose certificate to operate has been revoked or a holder of a crematory license whose license has been revoked shall not operate, either directly or indirectly, or hold any interest in any crematory or funeral establishment: *Provided*, That a holder of a crematory license whose license has been revoked is not prohibited from leasing any property owned by him or her for use as a crematory, so long as the property owner does not participate in the control or profit of the crematory except as lessor of the premises for a fixed rental not dependent upon earnings.

(g) Failure to comply with any of these provisions shall be grounds for revocation of a crematory license.

(h) All persons that operate crematories shall by January 1, 2003, register with the board. By July 1, 2003, all persons that operate crematories shall obtain a crematory license, pursuant to the provisions of this section.

(i) All crematory licenses must be renewed biennially upon or before July 1.

(j) After July 1, 2003, all licensed crematories must have a certified crematory operator in charge.

(k) If a certified crematory operator in charge ceases to be employed by a crematory, then the holder of the crematory license shall notify the board within 30 days of the cessation. Within 30 days after such notification, the holder of a crematory license shall execute a new application for a crematory license specifying the name of the new certified crematory operator in charge. A crematory is prohibited from operating more than 30 days without a certified crematory operator in charge.

§30-6-22b. Certification for alkaline hydrolysis of human remains.

(a) No person, funeral establishment, corporation, partnership, joint venture, voluntary organization, or other entity shall hydrolyze human remains without first obtaining a certificate from the board.

(b) Except as otherwise provided by this article, a certificate for the hydrolysis of human remains shall have the same requirements and fees as for the licensing of crematories under this article. The alkaline hydrolysis of human remains shall be conducted in compliance with all requirements for cremation.

(c) The board shall have the same powers to regulate, enforce, discipline, and inspect alkaline hydrolysis certificate holders and the practice of alkaline hydrolysis that have been granted under this article for the regulation, enforcement, discipline, and inspection of crematories and the practice of cremation.

(d) Any solid remains or residue remaining after alkaline hydrolysis shall be treated and disposed of as cremated remains under this article. Disposal of liquid waste shall be subject to all applicable health and environmental laws and regulations.

(e) Human remains shall be hydrolyzed in an alkaline hydrolysis container and may not be required to be hydrolyzed in a casket.

(f) Unless specified otherwise by the manufacturer of the equipment used for alkaline hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or defibrillator. Any other potentially hazardous implanted device or material shall be handled in accordance with applicable state laws and regulations.

(g) The board shall promulgate legislative rules necessary to define the education and requirements for the certification to perform alkaline hydrolysis.

The bill (Eng. H. B. 4647), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4675, Relating to autonomous delivery vehicles.

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

Eng. House Bill 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

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

Eng. House Bill 4769, Eliminate the requirement to send recommended decisions by certified mail.

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

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

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

Eng. Com. Sub. for House Bill 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

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

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

Eng. House Bill 2817, Donated Drug Repository Program.

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

On motion of Senator Maroney, the Senate reconsidered the vote by which on Friday, March 4, 2022, it adopted the Health and Human Resources committee amendment to the bill (*shown in the Senate Journal of that day, pages 1630 and 1631*).

The vote thereon having been reconsidered,

The question again being on the adoption of the Health and Human Resources committee amendment to the bill.

On motion of Senator Maroney, the following amendment to the Health and Human Resources committee amendment to the bill was reported by the Clerk and adopted:

In section six, subsection (p), subdivision (6), by striking out the words "manufacturer or".

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.

Engrossed House Bill 2817, as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2817) 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 2817—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §60B-1-1, §60B-1-2, §60B-1-3, §60B-1-4, §60B-1-5, §60B-1-6, §60B-1-7, and §60B-1-8, all relating to creating the Donated Drug Repository Program; establishing the West Virginia Board of Pharmacy has the authority to administer the program; setting forth eligibility requirements; establishing how the drugs are to be treated; permitting a handling fee; defining terms; providing for liability protection; providing criminal immunity; providing that entity participating in a drug donation operated by another state may participate in this program and in the case of a pharmacy may dispense donated drugs to the residents of this state; and requiring rulemaking.

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.

Eng. Com. Sub. for House Bill 2096, Reinstating the film investment tax credit.

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

Eng. Com. Sub. for House Bill 4113, Public Health definitions and powers of secretary and commissioner.

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

Eng. Com. Sub. for House Bill 4257, Require visitation immediately following a procedure in a health care facility.

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

Eng. Com. Sub. for House Bill 4297, To facilitate the sharing of information between the Department of Health and Human Resources and the State Auditor's office in order to investigate reports of financial abuse and neglect of a vulnerable adult.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—4.

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

Engrossed Committee Substitute for House Bill 4297 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sybolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—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 H. B. 4297) passed with its title.

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

Eng. House Bill 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

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

Eng. House Bill 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

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

Eng. Com. Sub. for House Bill 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

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

Eng. Com. Sub. for House Bill 4461, Relating to the consolidation of all administrative fees collected by the agency into the existing "Tax Administration Services Fund".

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—4.

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

Engrossed Committee Substitute for House Bill 4461 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—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 H. B. 4461) passed with its title.

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

Eng. Com. Sub. for House Bill 4484, Declaring certain claims against agencies of the state to be moral obligations of the state.

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

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

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—4.

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

Engrossed Committee Substitute for House Bill 4484 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—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 H. B. 4484) passed with its title.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Beach, Swope, Takubo, and Woelfel—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 H. B. 4484) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4567, Relating to business and occupation or privilege tax.

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

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

Senator Maynard, 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 2910, To modify the allowable number of magistrate judges per county.

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,

Mark R. Maynard,
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 Government Organization pending.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4064, Allowing antique car license plates for cars over 10,000lbs.

And,

Eng. House Bill 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

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,

Mark R. Maynard,
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

Eng. Com. Sub. for House Bill 4329, To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4466, Relating to School Building Authority's review of school bond applications.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4580, To authorize retired bus operators to work in areas of critical need.

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 Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Engrossed Committee Substitute

for House Bill 4466 contained in the foregoing report from the Committee on Education.

Engrossed Committee Substitute for House Bill 4580, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4467, Requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels.

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,

Patricia Puertas Rucker,
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

Eng. Com. Sub. for House Bill 4510, To provide that third grade students be competent in reading and math before moving on to fourth grade.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 4540, To update all retirement plans to comport with federal law.

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,

Eric Nelson, Jr.,
Chair.

At the request of Senator Tarr, 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 Pensions.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4571, Modifying foundation allowance to account for transportation by electric powered buses.

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,

Patricia Puertas Rucker,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Education pending.

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

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 4613, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

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,

Eric Nelson, Jr.,
Chair.

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

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

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds.

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,

Eric Nelson, Jr.,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Pensions pending.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Maynard.

At the request of Senator Trump, unanimous consent being granted, 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 Karnes, Geffert, and Smith.

The Senate again proceeded to the thirteenth order of business.

Senator Blair (Mr. President) announced the replacement of Senator Blair (Mr. President) on the Committee on the Judiciary with Senator Takubo. Senator Blair (Mr. President) then announced the replacement of Senator Blair (Mr. President) on the Committee on Finance with Senator Takubo.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolution on March 4, 2022:

Senate Resolution 50: Senators Stollings, Rucker, and Hamilton.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 6:16 p.m., the Senate adjourned until tomorrow, Tuesday, March 8, 2022, at 11 a.m.

TUESDAY, MARCH 8, 2022

The Senate met at 11:16 a.m.

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

Prayer was offered by Dr. D. W. Cummings, Senior Pastor, Bethlehem Apostolic Temple, Wheeling, 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 Monday, March 7, 2022,

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. Com. Sub. for Senate Bill 515, Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services.

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 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund.

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 525, Expiring funds from unappropriated balance in Lottery Net Profits.

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 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary.

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 527, Supplementing and amending appropriations to Department of Administration, Office of Technology.

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 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV.

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 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH.

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 628, Supplementing and amending appropriations to Department of Commerce, DNR.

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 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division.

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 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account.

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 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals.

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 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund.

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 March, 2022, 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. 499), Authorizing legislative rules for School Building Authority.

And,

(S. B. 713), Removing statutory limit for Environmental Laboratory Certification Fund.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

Senate Bill 731, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

Senate Bill 732, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

And,

Senate Bill 733, Supplementing and amending appropriation to Executive, Governor's Office.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 3231, Public Utilities not required to pay interest on security deposits.

Eng. Com. Sub. for House Bill 4488, Relating to coal mining and changing fees for permitting actions.

Eng. House Bill 4496, Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested.

Eng. House Bill 4566, Creating the Economic Enhancement Grant Fund.

And,

Eng. House Bill 4568, To allow phased rehabilitations of certified historic structures.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4008, Relating to Higher Education Policy Commission funding formula.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4071, Mask and Quarantine Option For Parents and Faculty.

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,

Patricia Puertas Rucker,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Education 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

Eng. House Bill 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4636, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

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 Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4845, Establishing the Katherine Johnson Academy.

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,

Patricia Puertas Rucker,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Education 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

Eng. House Bill 4848, Relating to nonintoxicating beer, wine and liquor licenses.

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.

Senators Stollings and Takubo offered the following resolution:

Senate Resolution 51—Designating the month of February as National Cancer Prevention Month at the Legislature.

Whereas, The month of February is National Cancer Prevention Month; and

Whereas, Detecting cancer early, before it has spread throughout the body saves lives; and

Whereas, Cancers detected when still localized can be treated more effectively and have a five-year cancer specific survival of approximately 90 percent compared with approximately 20 percent for cancers found after metastasis has occurred; and

Whereas, Diagnosing and treating cancer earlier often results in less invasive treatments for patients, which are also less expensive; and

Whereas, The benefits of early cancer detection to Medicare beneficiaries in West Virginia has been limited to five cancers; and

Whereas, It is estimated that 4,580 West Virginia residents will have died of cancer in 2021, and that six of the top 10 causes of cancer deaths in West Virginia have no recommended screening test; and

Whereas, Age is the leading risk factor for cancer, placing Medicare beneficiaries in West Virginia at elevated risk. Americans who are 65 years of age and older are more than seven times as likely as Americans who are under 65 years of age to be diagnosed with cancer; and

Whereas, Several innovative private and academic efforts are engaged in research, including advanced clinical trials to develop multi-cancer early detection blood-based tests; and

Whereas, Published data indicates that these tests can screen for many cancers at the same time, including rare cancers, with one example currently able to screen for more than 50 cancers; and

Whereas, Multi-cancer early detection tests can complement the covered early detection tests enacted by Congress, West Virginia, and extend the benefits of early detection to more cancers and more Americans; and

Whereas, West Virginia Congressional representatives Senator Shelley Moore Capito, Congressman David McKinley, Congressman Alex Mooney, and Congresswoman Carol Miller have joined a bipartisan list of over 180 members of Congress, 300 stakeholder organizations representing all 50 states; including many of the most respected cancer advocacy organizations in the country and West Virginia, in supporting the Medicare Multi-Cancer Early Detection Screening Coverage Act; therefore, be it

Resolved by the Senate:

That the Senate commends the bipartisan leadership and memorialize the United States Congress to enact [S. 1873 / H.R. 1946], the Medicare Multi-Cancer Early Detection Screening

Coverage Act, or similar legislation to establish Medicare coverage for multi-cancer early detection tests, and to continue working across party lines to reduce cancer deaths in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the President of the United States, Governor James C. Justice, and each member of the West Virginia Congressional Delegation.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 56, Requesting Joint Committee on Government and Finance study effect of Kenney v. Liston.

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 57, Requesting WV Insurance Commission study options for coverage and cost of dental procedures that result from cancer related dental and oral health procedures.

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 House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 2177) 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 2177—A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended, relating to identification cards without a photograph; authorizing the Division of Motor Vehicles to issue identification cards without a photograph; setting forth requirements for a form supplied by the division; and specifying requirements for applicants of an identification card without a photograph to obtain such a license.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings,

Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 2177) 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 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

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, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Caputo and Romano—2.

Absent: Swope—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. 3223) passed with its title.

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

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4003) passed with its title.

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

Eng. House Bill 4019, Relating to deadlines for public charter schools.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4019) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4019) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4141) 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 4141—A Bill to amend and reenact §64-6-1 et. seq. of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Homeland Security to promulgate legislative rules; authorizing the rules as filed and modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to law enforcement training and certification standards; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the Fire Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the State Building Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to volunteer fire department equipment and training grant funding disbursement; relating to authorizing the Fire Commission to promulgate a legislative rule relating to specialized membership; relating to authorizing the Fire Commission to promulgate a legislative rule relating to junior firefighters; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the certification of fire chiefs; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the use of aqueous film-forming foam (AFFF) for fire training program purposes; relating to authorizing the Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive materials; and relating to authorizing the State Police to promulgate a legislative rule relating to career progression.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4141) 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 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4242) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4242) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4418, Relating to the Small Business Supplier Certification Assistance 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4418) passed with its title.

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

Eng. Com. Sub. for House Bill 4420, To modify definitions of school bus operators.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4420 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4420) passed with its title.

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

Eng. Com. Sub. for House Bill 4430, Relating to definitions of base salary and overtime for police and firemen pensions.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4430) passed with its title.

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

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4438) 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 4438—A Bill to amend and reenact §3-4A-9 of the Code of West Virginia, 1931, as amended, relating to minimum requirements for electronic voting systems; and requiring electronic voting systems to be independent and nonnetworked with no component connected to the internet.

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 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

On third reading, coming up in regular order, with the unreported Economic Development committee amendment pending, and with the right having been granted on yesterday, Monday, March 7, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Martin, as vice chair of the Committee on Economic Development, and by unanimous consent, the unreported Economic Development committee amendment to the bill was withdrawn.

On motion of Senator Swope, 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 2K. COALFIELD COMMUNITIES GRANT FACILITATION COMMISSION.

§5B-2K-1. Short title.

This article shall be known as the Coalfield Grant Facilitation Act of 2022.

§5B-2K-2. Legislative Findings.

The Legislature finds that the historical coal field communities of this state that were once thriving and vital parts of the state have seen decades of decline as changes in coal mining technologies and mining practices and the decline in the market for coal have resulted in a steady decline in the populations and economic vitality of the coal mining regions of our state; and every effort made to revitalize these areas is an important and necessary component of the success and advancement of the economy of this state.

Many funding initiatives available to these areas in the form of matching grants from federal and private sources have become a significant and important opportunity for access to capital to initiate revitalization, but limitations of funds to match grants and

having the resources to apply for and facilitate receipt of these grants has encumbered the utilization of these resources.

The Legislature, by enactment of this article, intends to initiate mechanisms to facilitate the access to such capital, by establishing a commission to administer state funds to provide to eligible local entities the required local matching portion for certain grants; and to facilitate assistance to these local entities by providing access to grant writing expertise and support by utilizing our state university and colleges to assist in the development of successful grant writing resources for local entities to maximize their success in rebuilding their communities.

§5B-2K-3. Coalfield Community Grant Facilitation Commission created.

(a) The Coalfield Community Grant Facilitation Commission is hereby created as an independent body corporate. The commission shall consist of 12 members, who shall be residents and citizens of the state. Commission members shall be appointed by the Governor, by and with the advice and consent of the Senate. The commission shall consist of the following members:

(1) The Secretary of the Department of Economic Development, or his or her designee, who shall serve as chairperson of the commission;

(2) A representative of county governments of this state;

(3) A representative of large municipalities of this state;

(4) A representative of small municipalities of this state;

(5) Two representatives of a foundation, nonprofit, or other organization that provides grants for public interest projects in this state and who has expertise in grant issuance or administration;

(6) Two representatives of institutions of higher education with specialized knowledge in economic development;

(7) A representative from businesses and industries within the state; and

(8) Three members at large appointed from regions and counties within coalfield areas of the state who have knowledge and experience in local issues, economic development, or other areas of expertise within the directive of the commission.

(b) Each member shall serve a term of five years. Of the members first appointed, five shall be appointed for a term ending December 31, 2023, and three each for terms ending one and two years thereafter. Commission members may be reappointed to additional terms, and although their terms may have expired shall continue to serve until their successor has been appointed.

(c) It is the duty of the commission:

(1) To establish a process for timely review of applications and approval of awards of funds needed as a required match to receive federal, state, or private grants with the goal to assure the greatest possibility that a grant being applied for is received;

(2) To award grants of commission funds, as available, in an efficient and fair manner to provide a match for local entities that would otherwise qualify for a federal, state, or private grant but are unable to fulfill the grant's matching fund requirements;

(3) To provide grant applicants with technical assistance and support; and

(4) To disseminate information for the purpose of educating persons and entities as to the existence and functions of the commission and as to the availability of state, federal, and nongovernmental resources.

(d) The Department of Economic Development shall assist the commission in its functions and operations including, but not limited to, providing administrative, clerical, and technical support.

(e) Members of the commission are not entitled to compensation for services performed as members. Each

member is entitled to reimbursement for reasonable expenses incurred in the discharge of their official duties. All expenses incurred by members shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from the funds of the Department of Economic Development or from funds appropriated for that purpose by the Legislature.

(f) No liability or obligation is incurred by the commission beyond the extent to which moneys are awarded for grant acquisition facilitation.

(g) Members shall meet as designated and scheduled by the chairperson. The presence of a majority of commission members, in person or by real-time electronic communication, constitutes a quorum to conduct business at a meeting.

(h) The commission shall prioritize the locations for grant funding assistance by utilizing the designation of priority communities established by the "Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization" established by presidential executive order 14008, issued on January 21, 2021. The commission may not certify a project unless it finds that the proposal is in the public interest and the grant will be used for a public purpose. For purposes of this article, projects in the public interest and for a public purpose can provide private benefit, if the commission, in its judgment determines that: (1) the project will enhance a local community or region; (2) the granting entity for which the commission's matching grant is being used requires a public purpose for grant eligibility; and (3) the commission in its judgment concludes the proposal will enhance the quality of life or services of a community or region. A public purpose includes, but is not limited to, proposals that:

(1) Enhance economic vitality, including revitalization of structures that have public purpose or benefit;

(2) Promote or develop an artistic or philanthropic purpose;

(3) Improve traditional infrastructure, such as water and wastewater treatment facilities, transmission lines, transportation facilities, and flood and wastewater management;

(4) Create or enhance telecommunications infrastructure including cellular towers, fiber optic expansion and technology infrastructure;

(5) Promote agricultural activities and development;

(6) Enhance development of previously mined areas or areas previously used by the coal industry and other industrial activities into uses that diversify the local economy;

(7) Create or expand recreational facilities, such as walking, hiking, all-terrain vehicle, bike trails, picnic facilities, restrooms, boat docking and fishing piers, and athletic facilities;

(8) Are used for acquisition of private property for local public purposes that promote economic vitality and housing development and enhancement;

(9) Preserve or enhance buildings that are of local historic or economic interest;

(10) Restore or create retail facilities, including related service, parking, and transportation facilities, to revitalize decaying downtown areas;

(11) Are the construction or expansion of other facilities that promote or enhance economic development or tourism opportunities thereby promoting the general welfare of local residents;

(12) Provide facilities and activities that provide resources for local residences that enhance quality of life including, but not limited to, childcare access and public transportation;

(13) Provide vocational and entrepreneurial training for displaced miners and other persons that have lost jobs or have been unable to find employment or business opportunities in the region;

(14) Make investments in coal field communities housing stock removal and remediation to facilitate community preservation and aesthetics; and

(15) Create drug and substance abuse rehabilitation programs and facilities.

(i) Prior to making any matching grant award, the commission may conduct a public hearing to assess local public support. If a public hearing is to be held, notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in the county where the proposed grant project is located at least 14 days prior to the hearing date.

(j) When a member of the commission must recuse himself or herself because of a perceived or actual conflict of interest regarding a proposed grant assistance award, a majority of the remaining members of the commission without a conflict shall be sufficient for the conduct of commission business.

§5B-2K-4. Coalfield Community Grant Facilitation Special Revenue Account.

A special revenue fund to be known as the Coalfield Community Grant Facilitation Fund is hereby created which shall consist of all moneys made available for the purposes of this article and include any amounts to be deposited in the fund, including all appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund. All amounts deposited in the fund shall be awarded by the commission as provided pursuant to the provisions of this article to local governmental units and private and public entities for purposes provided for in this article.

§5B-2K-5. Facilitation of grant submissions by higher education institutions.

To maximize the resources of the state and to create a resource for entities and persons interested in applying for grants that need assistance with grant proposal and applications, the commission shall coordinate and administer a specialized subcommittee of the

commission made up of representatives of West Virginia University, Marshall University, the Alliance for Economic Development of Southern West Virginia, and all institutions of higher learning in the coal field counties and regions of this state to provide assistance in the development of grants and grant applications by persons or entities that need assistance in designing, preparing, or implementing a grant proposal submission to a governmental or private entity providing grants. This assistance shall include:

(1) Training of persons to have expertise in developing, applying for, and administering grants;

(2) Providing technical assistance to the commission on administration and facilitation of grant assistance applications; and

(3) Any other actions or initiatives that assist the commission and promote the goals of this article.

§5B-2K-6. Report to the Legislature.

The commission shall provide by December first of each year to the Joint Committee on Government and Finance an annual electronic report that provides the following:

(1) A summary of grant assistance applications received and relevant statistics relating to actions taken by the commission and grants awarded;

(2) An analysis of types of grants or public, private and nonprofit grants available but not applied for that if received could be utilized to benefit coal field communities;

(3) Recommendations regarding appropriations to the Coalfield Community Grant Facilitation Fund for the upcoming fiscal year; and

(4) Any recommended legislation or policy actions needed to facilitate greater receipt of grant funding to coalfield communities.

Engrossed Committee Substitute for House Bill 4479, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4479 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4479) passed.

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

Eng. Com. Sub. for House Bill 4479—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, and §5B-2K-6, all relating to establishing the Coalfield Communities Grant Facilitation Commission; providing legislative findings; establishing the Commission and providing for its membership and duties; providing for commission assistance from the Department of Economic Development and certain institutions of higher education; authorizing the Commission to provide the local match portion for local public and private entities applying for grants from federal, state and private sources; providing what constitutes a public purpose for eligibility for grant match; establishing a special revenue account; directing the creation of a special subcommittee of the Commission to assist the Commission and grant applicants with training and other technical expertise as

directed by the Commission; and providing for annual electronic reports to the Legislature's Joint Committee on Government and Finance.

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 Caputo, and by unanimous consent, the remarks by Senator Stollings as to the passage of Engrossed Committee Substitute for House Bill 4479 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4499) passed.

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

Eng. Com. Sub. for House Bill 4499—A Bill to amend and reenact §5A-3-1, §5A-3-3, §5A-3-4, §5A-3-10, §5A-3-10a, §5A-3-11, §5A-3-12, §5A-3-17, §5A-3-18, §5A-3-29, §5A-3-35, and

§5A-3-45 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6D-1-2 of said code, all relating generally to making procurement process more efficient by modifying and updating outdated processes and requirements and encouraging earlier communication with and assistance from experts within Purchasing Division regarding manner and process of procurement of commodities and services by spending units of the state; authorizing open market procurement in emergencies; eliminating outdated references to audits of exempted agencies; allowing director to exempt certain transactions from the requirements of §5A-3-1 *et seq.*; allowing division resources to be made available to exempt spending units; clarifying that grant recipients need not pay registration fees as a vendor; establishing qualifications for state buyer and for director positions; authorizing other procurement methods in lieu of formal competitive bidding when determined to be in best interest of state; granting director discretion to increase delegated procurement limits; making procurement from nonprofit workshops optional; clarifying timing required on rebidding; changing requirement for affidavit verifying that no debt is owed to affirmation; granting director discretion to increase \$2,500 no bid limit; eliminating outdated information reporting requirements for vendor registration; clarifying procurement penalties and inventory submission language; removing surplus fees for inter-agency asset transfers; requiring inter-agency asset transfers be recorded in accordance with governmental accounting standards; shifting time for disclosure of interested party information from date of contract award to before work begins to make procurement process more efficient; and making technical changes throughout.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4499) takes effect from passage.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in regular order, with the unreported Education committee amendments pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendments to the bill were withdrawn.

On motion of Senator Karnes, the following amendment to the bill (Eng. H. B. 4535) was reported by the Clerk:

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

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-3a. Graduated driver's license.

(a) A person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable

alcohol in his or her system is subject to §17C-5-2 and §17C-5A-2 of this code. ~~Any person under the age of 18, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code.~~

(c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) *Eligibility.* — The division may not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code; and

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; and~~

~~(E)~~ (D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under this section is valid until 30 days

after the date the applicant attains the age of 18 and is not renewable: *Provided*, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

(C) All occupants use safety belts in accordance with §17C-15-49 of this code; and

(D) The permit holder is operating the vehicle without any measurable blood alcohol content, in accordance with §17C-5-2(h) of this code. ~~and~~

~~(E) The permit holder maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code~~

(d) *Level two intermediate driver's license.* — An applicant 16 years of age or older, meeting all other requirements of this code, may be issued a level two intermediate driver's license.

(1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the State Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code~~

~~(E)~~ (D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based

on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of a level two intermediate driver's license.* — A level two intermediate driver's license issued under the provisions of this section expires 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. A holder of a level two intermediate driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10 p.m.;

(B) The licensee operates a vehicle only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in accordance with §17C-5-2(h) of this code;

~~(F) The licensee maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code~~

~~(G)~~ Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under ~~§17B-2-3a(d)(2)(H)~~ §17B-2-3a(d)(2)(G) of this code; and

~~(H)~~ (G) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two

intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6 and §17B-2-7 of this code.

(e) *Level three, full Class E license.* — The level three license is valid until 30 days after the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years; ~~and~~

~~(A)~~ (2) Presents a completed application as prescribed by §17B-2-6 of this code;

~~(B)~~ (3) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;

~~(C)~~ (4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of this code; and

~~(D)~~ (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.

~~(E) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; or~~

(2) Reaches the age of 18 years; and

~~(A) Presents a completed application as prescribed by §17B-2-6 of this code; and~~

~~(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index. *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code~~

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.

ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.

§17B-3-6. Authority of division to suspend, restrict, or revoke license; hearing.

(a) The division is hereby authorized to suspend, restrict, or revoke the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;

(2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

(3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as

to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) Is an habitually reckless or negligent driver of a motor vehicle;

(5) Is incompetent to drive a motor vehicle;

(6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

(7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures, or penalties imposed by a magistrate court or municipal court within 90 days, as required by ~~section two-a, article three, chapter fifty~~ §50-3-2a of this code or ~~section two-a, article ten, chapter eight~~ §8-10-2a of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;

(9) Is under the age of ~~eighteen~~ 17 and has withdrawn either voluntarily or involuntarily due to misconduct from a secondary school or has failed to maintain satisfactory academic progress, as provided in ~~section eleven, article eight, chapter eighteen~~ §18-8-11 of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in ~~article five-a, chapter forty-eight-a~~ §48A-5A-1 et seq. of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures, or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section and the division has received a court order restoring the license or a certification by the Child Support Enforcement Division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending, or restricting the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his or her request shall afford him or her an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension, or restriction or, good cause appearing therefor, may extend the suspension, or restriction of such license or revoke such license. The provisions of this subsection providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section. Any person whose driver's license is suspended,

restricted, or revoked after hearing with the commissioner may seek judicial review of the final order or decision in accordance with §29A-5-4 of this code.

(e) Notwithstanding the provisions of legislative rule 91 CSR 5, the division may, upon completion of an approved defensive driving course, deduct three points from a licensee's point accumulation provided the licensee has not reached 14 points. If a licensee has been notified of a pending 30-day driver's license suspension based on the accumulation of 12 or 13 points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension: *Provided*, That the licensee submits proof of prior completion of the course and payment of the reinstatement fee in accordance with section nine, article three of this chapter to the division prior to the effective date of the suspension.

CHAPTER 18. EDUCATION.

ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.

§18-8-11. School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

~~(a) In accordance with the provisions of §17B-2-3a and §17B-2-5 of this code, the Division of Motor Vehicles shall deny a license or instruction permit for the operation of a motor vehicle to any person under the age of 18 who does not at the time of application present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state or documentation that the person: (1) Is enrolled and making satisfactory progress in a course leading to a general education development certificate (GED) from a state approved institution or organization or has obtained the certificate; (2) is enrolled and is making satisfactory academic progress in a secondary school of this state or any other state; (3) is excused from the requirement due to circumstances beyond his or her control; or (4) is enrolled in an institution of higher education as a full-time student in this state or any other state.~~

~~(b) The attendance director or chief administrator shall, upon request, provide a driver's eligibility certificate on a form approved by the Department of Education to any student at least 15 but less than 18 years of age who is properly enrolled and is making satisfactory academic progress in a school under the jurisdiction of the official for presentation to the Division of Motor Vehicles on application for or reinstatement of an instruction permit or license to operate a motor vehicle: *Provided*, That a parent or legal guardian of a child who is being educated pursuant to §18-8-1(c) of this code may provide a signed statement in lieu of a driver's eligibility certificate issued by the attendance director or chief administrator affirming that the child is being educated in accordance with law, is making satisfactory academic progress, and meets the conditions to be eligible to obtain any permit or license under this section. The Division of Motor Vehicles may accept from a county board of education electronic notice of a student's compliance with the provisions of this section in lieu of any written form or written statement otherwise required from an applicant for an instruction permit or driver's license.~~

~~(e)~~ (a) Whenever a student at least 15 but less than ~~18~~ 17 years of age, except as provided in subsection ~~(g)~~ (e) of this section, withdraws from school, the attendance director or chief administrator shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license to operate a motor vehicle will be ~~suspended~~ restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance or circumstances beyond the control of the student. If ~~suspended~~ restricted, the division may not reinstate an

instruction permit or license until the student returns to school and shows satisfactory academic progress or until the student attains ~~18~~ 17 years of age.

~~(d)~~ (b) Whenever a student at least 15 but less than ~~18~~ 17 years of age is enrolled in a secondary school and fails to maintain satisfactory academic progress, the attendance director or chief administrator shall follow the procedures set out in subsection ~~(e)~~ (a) of this section to notify the Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license will be ~~suspended~~ restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. Once ~~suspension~~ the restriction is ordered, the division may not reinstate an instruction permit or license until the student shows satisfactory academic progress or until the student attains ~~18~~ 17 years of age.

~~(e)~~ (c) Upon written request of a student, within 10 days of receipt of a notice of ~~suspension~~ restriction as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

~~(f)~~ (d) For the purposes of this section:

(1) "Withdrawal" is defined as more than 10 consecutive or 15 total days unexcused absences during a school year, or suspension pursuant to §18A-5-1a(a) and §18A-5-1a(b) of this code.

(2) "Satisfactory academic progress" means the attaining and maintaining of grades sufficient to allow for graduation and course work in an amount sufficient to allow graduation in five years or by age 19, whichever is earlier.

(3) "Circumstances outside the control of the student" shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another.

(4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the student.

~~(g)~~ (e) Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to or to obtain a GED or high school diploma, or the student's failure to make satisfactory academic progress is due to a circumstance or circumstances beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of Motor Vehicles to ~~suspend~~ restrict the student's motor vehicle operator's license and if the student is applying for a license, the attendance director or chief administrator shall provide the student with documentation to present to the Division of Motor Vehicles to excuse the student from the provisions of this section. The school district superintendent (or the appropriate school official of any private secondary school) with the assistance of the county attendance director and any other staff or school personnel shall be the sole judge of whether any of the grounds for ~~denial or suspension~~ restriction of a license as provided by this section are due to a circumstance or circumstances beyond the control of the student.

~~(h)~~ (f) The state board shall promulgate rules necessary for uniform implementation of this section among the counties and as may otherwise be necessary for the implementation of this section. The rule may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation.

Following discussion,

At the request of Senator Karnes, and by unanimous consent, further consideration of the bill and the pending amendment offered by Senator Karnes was deferred until the conclusion of bills on today's second reading calendar.

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4562) passed.

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

Eng. Com. Sub. for House Bill 4562—A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating generally to the suspension and dismissal of school personnel by board and the appeals process; requiring upon commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, the affected employee to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with

pupils; requiring 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 to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition; and making it the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours.

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 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4583) 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 4583—A Bill to amend and reenact §39B-1-106 of the Code of West Virginia, 1931, as amended, relating to declaring that neither being detained, including being incarcerated in a penal system, nor being outside the United States and unable to return, creates an inference of incapacity to execute a power of attorney.

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 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4596) 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 4596—A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-29-1 of said code; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend said code by adding thereto a new section

designated §62-11B-7b; and to amend and reenact §62-12-5 and §62-12-6 of said code all relating generally to recognizing additional professions qualifying for protections under the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state adult probation officers, state juvenile probation officers, and state parole officers are, by virtue of their duties, qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to applicable federal law; requiring annual firearm training pursuant to federal law; removing inconsistent language relating to probation officers; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing for training to enable home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers to fully qualify as law-enforcement officers if they have not previously done so; setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers, and removing a duplicative reference to probation officers in code.

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

Eng. House Bill 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith,

Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4604) passed.

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

Eng. House Bill 4604—A Bill to amend and reenact §18B-3D-2 of the Code of West Virginia, 1931, as amended, relating to abolishing the Workforce Development Initiative Program advisory committee.

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

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

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, Brown, Caputo, Clements, Geffert, Grady, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Hamilton—1.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4647) passed with its title.

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

At the request of Senator Plymale, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4675, Relating to autonomous delivery vehicles.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—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. 4675) passed with its title.

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

Eng. House Bill 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4758) passed with its title.

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

Eng. House Bill 4769, Eliminate the requirement to send recommended decisions by certified mail.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Lindsay, Romano, and Stover—3.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4769) passed with its title.

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

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4785 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—30.

The nays were: Brown, Caputo, and Woodrum—3.

Absent: Swope—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. 4785) 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 4785—A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to procedures for filling judicial vacancies; providing that a vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment if the unexpired term is for a period of not more than three years; clarifying that the amendment shall apply to judicial vacancies existing at the date of passage; clarifying timing of election to fill judicial vacancies before the close of candidate filing for the primary election; and clarifying timing of election to

fill judicial vacancies after the close of the candidate filing for the primary election through 84 days before the general election.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—30.

The nays were: Brown, Caputo, and Woodrum—3.

Absent: Swope—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. 4785) takes effect from passage.

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

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:42 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:28 p.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, 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 H. B. 4797) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2096, Reinstating the film investment tax credit.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4113, Public Health definitions and powers of secretary and commissioner.

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

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

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

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-2. Definitions.

As used in this article:

(1) "Basic public health services" means those services that are necessary to protect the health of the public; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion and environmental health protection~~

(2) "Bureau" means the Bureau for Public Health in the department;

(3) "Combined local board of health" means one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

(4) "Commissioner" means the commissioner of the bureau, who is the state health officer;

(5) "County board of health" means one form of organization for a local board of health and means a local board of health serving a single county;

(6) "Department" means the West Virginia Department of Health and Human Resources;

(7) "Director" or "director of health" means the state health officer. Administratively within the department, the bureau through its commissioner carries out the public health functions of the department, unless otherwise assigned by the secretary;

(8) "Essential public health services" means the core public health activities necessary to promote health and prevent disease,

injury, and disability for the citizens of the state. The services include:

(A) Monitoring health status to identify community health problems;

(B) Diagnosing and investigating health problems and health hazards in the community;

(C) Informing, educating, and empowering people about health issues;

(D) Mobilizing community partnerships to identify and solve health problems;

(E) Developing policies and plans that support individual and community health efforts;

(F) Enforcing laws and rules that protect health and ensure safety;

(G) Uniting people with needed personal health services and assuring the provision of health care when it is otherwise not available;

(H) Promoting a competent public health and personal health care workforce;

(I) Evaluating the effectiveness, accessibility, and quality of personal and population-based health services; and

(J) Researching for new insights and innovative solutions to health problems;

~~(9) "Licensing boards" means those boards charged with regulating an occupation, business or profession and on which the commissioner serves as a member~~

~~(10)~~ (9) "Local board of health", "local board", or "board" means a board of health serving one or more counties or one or more municipalities or a combination thereof;

~~(11)~~ (10) "Local health department" means the staff of the local board of health;

~~(12)~~ (11) "Local health officer" means the physician with a current West Virginia license to practice medicine who supervises and directs the activities, services, staff, and facilities of the local health department and is appointed by the local board of health with approval by the commissioner;

~~(13)~~ (12) "Municipal board of health" means one form of organization for a local board of health and means a board of health serving a single municipality;

~~(14)~~ (13) "Performance-based standards" means generally accepted, objective standards such as rules or guidelines against which public health performance can be measured;

~~(15)~~ (14) "Potential source of significant contamination" means a facility or activity that stores, uses, or produces substances or compounds with potential for significant contaminating impact if released into the source water of a public water supply;

~~(16)~~ "Program plan" or "plan of operation" means the annual plan for each local board of health that must be submitted to the commissioner for approval

~~(17)~~ (15) "Public groundwater supply source" means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary source of water supplies which is found underneath the surface of the state;

~~(18)~~ (16) "Public surface water supply source" means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state;

~~(19)~~ (17) "Public surface water influenced groundwater supply source" means a source of water supply for a public water system which is directly drawn from an underground well, underground

river or stream, underground reservoir, or underground mine, and the quantity and quality of the water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area;

~~(20)~~ (18) "Public water system" means:

(A) Any water supply or system which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of ~~twenty five~~ 25 individuals per day for at least ~~sixty~~ 60 days per year, or which has at least ~~fifteen~~ 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system;

(B) A public water system does not include a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce;

~~(21)~~ (19) "Public water utility" means a public water system which is regulated by the West Virginia Public Service Commission pursuant to the provisions of ~~chapter twenty four~~ §24-1-1 et seq. of this code;

~~(22)~~ (20) "Secretary" means the secretary of the department.

~~(23)~~ (21) "Service area" means the territorial jurisdiction of a local board of health;

~~(24)~~ "~~State Advisory Council on Public Health~~" means the ~~advisory body charged by this article with providing advice to the commissioner with respect to the provision of adequate public health services for all areas in the state;~~

~~(25)~~ "~~State Board of Health~~" means the ~~secretary, notwithstanding any other provision of this code to the contrary, whenever and wherever in this code there is a reference to the State Board of Health~~

~~(26)~~ (22) "Zone of critical concern" for a public surface water supply is a corridor along streams within a watershed that warrant more detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient, and area topography. The length of the zone of critical concern is based on a five-hour time-of-travel of water in the streams to the water intake, plus an additional one-fourth mile below the water intake. The width of the zone of critical concern is ~~one thousand~~ 1000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

§16-1-3. Powers and duties of the secretary.

(a) The secretary may establish a state public health system.

~~(b) All powers and duties of the director of health previously established by former section ten of this article that are not specifically included in this chapter as powers and duties of the commissioner are powers and duties of the secretary~~

~~(c)~~ (b) As necessary for the effective, efficient, and economical operation of the system, the secretary may from time to time delegate, assign, transfer, or combine responsibilities or duties to or among employees of the department.

~~(d)~~ (c) Within the limits of applicable federal law, the secretary may require every applicant for a license, permit, certificate of registration, or registration under this chapter to place his or her social security number on the application.

(d) The secretary may appoint advisory councils.

§16-1-4. Proposal of rules by the secretary.

(a) The secretary may propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code that include: are necessary and proper to effectuate the purposes of this chapter. ~~The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and intellectual disability centers and any other areas necessary to advise the secretary on rules.~~

~~(b) The rules may include: but are not limited to, the regulation of~~

(1) Land usage endangering the public health: *Provided*, That no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots, or parcels exceed two acres each in total surface area and which individual tracts, lots, or parcels have an average frontage of not less than 150 feet even though the total surface area of the tract, lot, or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased, or utilized only as single-family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to:

(A) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single-family dwelling unit;

(B) Propose or enforce rules applicable to single-family dwelling units for single-family dwelling unit sanitary sewerage disposal systems; or

(C) Restrict any subdivision or development which might endanger the public health, the sanitary condition of streams, or sources of water supply;

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities, and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods, and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

(A) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(B) The minimum requirements for: sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption, or upon failure to comply with specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(C) The requirements covering the production and distribution of bottled drinking water and may establish requirements governing the taste, odor, appearance, and other consumer acceptability parameters of drinking water;

(5) Food and drug standards, including cleanliness, proscription of additives, proscription of sale, and other requirements in accordance with §16-7-1 *et seq.* of this code as are necessary to protect the health of the citizens of this state;

(6) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services, and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed, and the availability, communications and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics. Any regulation of emergency medical service attendants and emergency medical care technician-paramedics may not exceed the provisions of §16-4C-1 *et seq.* of this code;

(7) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, "bed and breakfast inn" means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a restaurant-style or commercial food service facility. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

(8) Fees for services provided by the Bureau for Public Health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees, and permit fees;

(9) The collection of data on health status, the health system, and the costs of health care;

~~(e) The secretary shall propose a rule for legislative approval in accordance with the provisions of §29A 3-1 et seq. of this code for~~ (10) The distribution of state aid to local health departments and basic public health services funds ~~The rule shall include the following provisions: in accordance with:~~

(A) Base allocation amount for each county;

(B) Establishment and administration of an emergency fund of no more than two percent of the total annual funds of which unused amounts are to be distributed back to local boards of health at the end of each fiscal year;

(C) A calculation of funds utilized for state support of local health departments;

(D) Distribution of remaining funds on a per capita weighted population approach which factors coefficients for poverty, health status, population density, and health department interventions for each county and a coefficient which encourages counties to merge in the provision of public health services; and

~~A hold harmless provision to provide that each local health department receives no less in state support for a period of four years beginning in the 2009 budget year;~~

(E) The provisions of this subdivision are in effect until the performance standard funding formula is created and established by legislative rule.

~~The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions §29A 3-15 of this code. The emergency rule is subject to the prior approval of the Legislative Oversight Commission on Health and Human Resources Accountability prior to filing with the Secretary of State.~~

~~(d) The secretary may propose rules for legislative approval that may include the regulation of other health-related matters which the department is authorized to supervise and for which the rule-making authority has not been otherwise assigned~~

(e) (b) The secretary shall not review any repair or modernization of equipment at a public pool facility as long as such activity does not change the scope of the facility or its current use and such activity does not exceed \$25,000 in planned cost.

§16-1-5. State health officer; appointment; qualifications; term.

The Commissioner of the Bureau for Public Health is the state health officer and shall be appointed by the secretary. The commissioner shall be ~~a physician~~ licensed under the laws of this state to practice medicine or a person holding a doctorate degree in public health administration. ~~The commissioner shall have not less than four years' experience in health services administration or a related field~~ The commissioner serves at the will and pleasure of the secretary and shall not be actively engaged or employed in any other business, vocation, or employment, serving full-time in the duties of the office as prescribed by this article.

§16-1-6. Powers and duties of the commissioner.

(a) The commissioner is the chief executive, administrative and fiscal officer of the Bureau for Public Health and has the following powers and duties:

~~(a)~~ (1) To supervise and direct the fiscal and administrative matters of the bureau, and in that regard and in accordance with law, employ, fix the compensation of, and discharge all persons necessary for the proper execution of the public health laws of this state and the efficient and proper discharge of the duties imposed upon, and execution of powers vested in the commissioner by law and as directed by the secretary;

~~(b)~~ (2) To enforce all laws of this state concerning public health. ~~to that end,~~

~~(3) The commissioner shall make, or cause to be made, investigations and inquiries respecting~~ To investigate the cause of disease, especially of epidemics and endemic conditions, and the means of prevention, suppression, or control of those conditions; the source of sickness and mortality, ~~and~~ the effects of environment, employment, habits, and circumstances of life on the public health.

~~The commissioner shall further make, or cause to be made, inspections and examinations of~~ (4) To inspect and examine food, drink, and drugs offered for sale or public consumption in the manner the commissioner considers necessary to protect the public health and shall report all violations of laws and rules relating to the law to the prosecuting attorney of the county in which the violations occur;

~~(e) (5)~~ (5) To make complaint or cause proceedings to be instituted against any person, corporation, or other entity for the violation of any public health law before any court or agency, without being required to give security for costs; the action may be taken without the sanction of the prosecuting attorney of the county in which the proceedings are instituted or to which the proceedings relate;

~~(d) (6)~~ (6) To promote the provision of essential public health services to citizens of this state;

~~(e) (7)~~ (7) To monitor the ~~administration,~~ operation and coordination of the local boards of health and local health officers;

~~(f) (8)~~ (8) To develop and maintain a state plan of operation that sets forth the needs of the state in the areas of public health; goals and objectives for meeting those needs; methods for achieving the stated goals and objectives; and needed personnel, funds, and authority for achieving the goals and objectives;

~~(g) (9)~~ (9) To collect data as may be required to foster knowledge on the citizenry's health status, the health system, and costs of health care;

~~(h) (10)~~ (10) To delegate to any appointee, assistant, or employee any and all powers and duties vested in the commissioner,

including, but not limited to, the power to execute contracts and agreements in the name of the bureau: *Provided*, That the commissioner is responsible for the acts of his or her appointees, assistants, and employees;

~~(i) (11) To transfer at the direction of the secretary, notwithstanding other provisions of this code any patient or resident between hospitals and facilities under the control of the commissioner~~ and, by agreement with the state Commissioner of Corrections and Rehabilitation and otherwise in accord with law, accept a transfer of a resident of a facility under the jurisdiction of the state Commissioner of Corrections and Rehabilitation;

~~(j) (12) To make periodic reports to the Governor and to the Legislature relative to specific subject areas of public health, the state facilities under the supervision of the commissioner, or other matters affecting the public health of the people of the state; at the direction of the secretary;~~

~~(k) At the direction of the secretary~~ (13) To accept and use for the benefit of the health of the people of this state, any gift or devise of any property or thing which is lawfully given: *Provided*, That if any gift is for a specific purpose ~~or for a particular state hospital or facility~~ it shall be used as specified. Any profit which may arise from any gift or devise of any property or thing shall be deposited in a special revenue fund with the State Treasurer and shall be used only as specified by the donor or donors;

~~(l) (14) To acquire by condemnation or otherwise any interest, right, privilege, land, or improvement and hold title to the land or improvement, for the use or benefit of the state or a state hospital or facility, and, by and with the consent of the Governor, and at the direction of the secretary, to sell, exchange or otherwise convey any interest, right, privilege, land, or improvement acquired or held by the state, state hospital, or state facility and deposit the proceeds from the sale, exchange or other conveyance into the hospital services revenue account.~~ Any condemnation proceedings shall be conducted pursuant to ~~chapter fifty four~~ §54-1-1 et seq. of this code;.

~~(m)~~ (15) To inspect and enforce rules to control the sanitary conditions of and license all institutions and health care facilities as set forth in this chapter, including, but not limited to, schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, places of entertainment, hotels, motels, tourist camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

~~(n)~~ (16) To make inspections, conduct hearings, and to enforce the legislative rules concerning occupational and industrial health hazards, the sanitary condition of streams, sources of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel connected with the supplies, facilities or systems without regard to whether they are publicly or privately owned; and to make inspections, conduct hearings and enforce the legislative rules concerning the design of chlorination and filtration facilities and swimming pools;

~~(o) To provide in accordance with this subdivision and the definitions and other provisions of article one a, chapter twenty-seven 27-1A-1 et seq. of this code, and as directed by the secretary, for a comprehensive program for the care, treatment and rehabilitation of alcoholics and drug abusers; for research into the cause and prevention of alcoholism and drug abuse; for the training and employment of personnel to provide the requisite rehabilitation of alcoholics and drug abusers; and for the education of the public concerning alcoholism and drug abuse~~

~~(p)~~ (17) To provide in accordance with this subdivision for a program for the care, treatment, and rehabilitation of the parents of sudden infant death syndrome victims; for the training and employment of personnel to provide the requisite rehabilitation of parents of sudden infant death syndrome victims; for the education of the public concerning sudden infant death syndrome; ~~for the responsibility of reporting to the Legislature on a quarterly basis the incidence of sudden infant death syndrome cases occurring in West Virginia;~~ for the education of police, employees, and volunteers of all emergency services concerning sudden infant

~~death syndrome; for the state sudden infant death syndrome advisory council to develop regional family support groups to provide peer support to families of sudden infant death syndrome victims; and for requesting appropriation of funds in both federal and state budgets to fund the sudden infant death syndrome program;~~

~~(q) (18) To establish and maintain a state hygienic laboratory as an aid in performing the duties imposed upon the commissioner, and to employ chemists, bacteriologists, and other employees that may be necessary to properly operate the laboratory. The commissioner may establish branches of the state laboratory at any points within the state that are necessary in the interest of the public health;~~

~~(r) To establish and fund a uniform health professionals data system to collect and maintain uniform data on all health professionals in the state. This data shall include, but not be limited to, the following information about each health professional: His or her name, profession, the area of the state where he or she is practicing, his or her educational background, his or her employer's name, and number of years practicing within the profession. The boards provided for in articles three, four, four a, five, seven, seven a, fourteen, fourteen a, fifteen, sixteen, twenty, twenty one, twenty three, twenty eight, thirty one, thirty two, thirty four, thirty five, thirty six and thirty seven, chapter thirty of this code shall annually collect the data on health professionals under their jurisdiction in the format prescribed by the commissioner. Each board shall pay to the bureau annually, an amount determined by the commissioner to be a pro rata portion, for anticipated expenses to establish and operate the uniform health professionals data system required by this section. The commissioner may standardize data collection methods if necessary to implement the provisions of this section. The commissioner shall publish annually and make available, upon request, a report setting forth the data which was collected the previous year; areas of the state which the collected data indicates have a shortage of health professionals; and projections, based upon the collected data, as to the need for more health professionals in certain areas~~

(s) (19) To expend, for the purpose of performing the public health duties imposed on the bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may make advance payments to public and nonprofit health services providers when the commissioner determines it is necessary for the initiation or continuation of public health services. The advance payments, being in derogation of the principle of payment only after receipt of goods or services, shall be authorized only after serious consideration by the commissioner of the necessity of the advance payments and shall be for a period no greater than ~~ninety~~ 90 days in advance of rendition of service or receipt of goods and continuation of health services; ~~and~~

(t) (20) To exercise all other powers delegated to the commissioner by the secretary or by this chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities necessary and incident to the authority and area of concern entrusted to the bureau or the commissioner.

(b) The commissioner shall establish within the Bureau for Public Health, a Center for Local Public Health. The center shall:

(1) Enhance the quality and availability of essential public health services throughout the state provided by local boards of health;

(2) Provide technical assistance and consultation to a local board of health agency;

(3) Allocate and distribute funding based upon performance based standards;

(4) Provide technical assistance to the local public health workforce;

(5) Facilitate bi-directional communication;

(6) Establish a uniform state-wide computer system for the reporting of public health data;

(7) Inventory the services provided by a local boards of health;

(8) Support sharing of services between local boards of health;

(9) Create a performance-based evaluation system based on standards established by legislative rule;

(10) Provide a quarterly training to ensure consistency in the application of state laws, legislative rules, and local health department rules; and

(11) Enforce compliance with performance standards.

§16-1-7. Commissioner serving on advisory boards.

~~(a) Effective July 1, 2012, the commissioner serves on the West Virginia Board of Medicine, provided in §30-3-1 et seq. of this code.~~

~~(b) Effective July 1, 2012~~ The commissioner serves on the following advisory councils, boards, and commissions:

(1) The Advisory Committee on Cancer (Cancer Registry);

(2) The Air Quality Board;

(3) The Appalachian States Low-level Radioactive Waste Commission;

(4) The Child Fatality Review Team;

(5) The Childhood Immunization Advisory Committee;

(6) The Early Intervention Coordinating Council;

(7) The Interagency Council on Osteoporosis;

(8) The Sewage Advisory Board;

(9) The State Emergency Response Commission;

(10) The State Groundwater Coordinating Committee;

(11) The Water Development Authority;

(12) The West Virginia Commission for the Deaf and Hard of Hearing;

(13) The West Virginia Infrastructure and Jobs Development Council; and

(14) Any other advisory council, board, or commission as assigned by the secretary except for business, professional, or occupational licensing boards.

~~(e) (b) Notwithstanding any other provision of this code to the contrary, The commissioner may, at his or her discretion designate in writing a representative to serve in his or her stead at the meetings and in the duties of all boards and commissions on which the commissioner is designated as an ex officio member. The appropriately designated representative or proxy acts with the full power and authority of the commissioner in voting, acting upon matters concerning the public health and welfare and other business that is properly the duty of any board or commission. The representative serves as proxy at the commissioner's will and pleasure. The provisions of this section do not apply to the West Virginia Board of Medicine, the Air Quality Board, or other board, commission, or body on which the commissioner is designated by this code as chairman ex officio, secretary ex officio, or a board, commission, or body on which the commissioner is designated by this code as being that person whose signature must appear on licenses, minutes, or other documents necessary to carry out the intents and purposes of the board, commission, or body~~

§16-1-8. Duties and powers of the commissioner; authorization to cooperate with any state health planning and development agencies and any federal government agencies in hospital and other health facility programs.

[Repealed].

§16-1-10. Disposition of permit, license, or registration fees received by the commissioner; report to Auditor; health facility licensing account.

(a) The commissioner shall receive and account for all moneys required to be paid as fees to the bureau for permits, licenses, or

registrations, pursuant to the provisions of this code and legislative rules.

(b) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the State Treasury a separate account which shall be designated "the Health Facility Licensing Account." The commissioner shall deposit to the Health Facility Licensing Account all health facility licensing fees and may spend the moneys deposited in the health facility licensing account in accordance with the laws of this state to implement activities of health facility licensing. As part of the annual state budget, the Legislature shall appropriate for health facility licensure all moneys deposited in the Health Facility Licensing Account.

Any remaining balance including accrued interest in the account at the end of any fiscal year shall not revert to the General Revenue Fund, but shall remain in the account, and the moneys may be spent after appropriation by the Legislature in ensuing fiscal years. ~~The commissioner shall make an annual report to the Legislature on the health facility licensing account, including the previous fiscal year's expenditures and projected expenditures for the next fiscal year~~

§16-1-11. Disposition of fees for services charged and received by the commissioner; health services fund.

(a) ~~Notwithstanding any other provisions of this chapter,~~ The commissioner may assess and charge reasonable fees for the provision of services provided by the bureau: *Provided*, That no individual may be denied health care services by the bureau because of the inability of the individual to pay for services. ~~when services are provided to similarly situated individuals who have the ability to pay for them~~ The fees shall be deposited into a special revolving fund in the State Treasury designated the "Health Services Fund."

(b) Any balance including accrued interest in the special revolving fund at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the fund for use by the

commissioner for funding health programs in the ensuing fiscal years.

~~(e) The commissioner may authorize reasonable fees for the provision of services by local boards of health as created in article two of this chapter: *Provided*, That no individual may be denied health care services by the local health department because of the inability of the individual to pay for services when services are provided to similarly situated individuals who have the ability to pay for them. The fees shall be deposited into the local board of health account for use by the local board for funding health programs. The commissioner shall establish the fees on a sliding fee basis determined by an individual's ability to pay: *Provided*, *however*, That the local board of health may submit a request through the administrator for third party reimbursement where the request is appropriate: *Provided further*, That Local boards of health that establish fees shall annually submit a schedule of fees, a sliding fee scale and an accounting of amounts collected to the commissioner as part of its program plan or plan of operation.~~

~~(d) The secretary shall propose legislative rules in accordance with article three, chapter twenty nine a of this code, setting forth the fees established, assessed, and charged by the commissioner~~

§16-1-12. Receipt and disbursement of federal aid and other moneys for health purposes.

(a) The commissioner ~~at the direction of the secretary~~, may accept, receive, and receipt for federal moneys and other moneys, either public or private, for and on behalf of this state or any county or municipality of this state, for public health purposes, or for the establishment or construction of public health facilities, whether the work is to be done by the state, or by the county or municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are, or may be, prescribed by the laws of the United States and regulations made thereunder. The commissioner may act as the agent of the state or any of its agencies, or of any county or municipality of this state, upon the request of any agency of the state or of any county or municipality, in accepting, receiving and receipting for the moneys in its behalf,

for public health facilities financed either, in whole or in part, by federal moneys.

(b) The state, any agency of the state, or any county or municipality may, designate the commissioner as its agent for the purposes set forth in subsection (a) of this section and the agency, county, or municipality may enter into an agreement with the commissioner prescribing the terms and conditions of the agency in accordance with federal laws and regulations, and with the laws of this state. The moneys paid over by the United States government shall be retained by the state or paid over to the counties or municipalities under the terms and conditions imposed by the United States government in making the grants.

(c) All moneys accepted for disbursement pursuant to this section shall be deposited by ~~the secretary or~~ the commissioner in the State Treasury, and unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purpose for which the moneys were made available, and held by the state in trust for those purposes. All moneys are hereby appropriated for the purposes for which the moneys were made available and shall be expended in accordance with federal laws and regulations and with the laws of this state. The commissioner may, whether acting for the state or one of its agencies, or as the agency for any county or municipality, when requested by the United States government or any agency or department of the United States government, or when requested by the state, a state agency, or any county or municipality for which the moneys have been made available, disburse the moneys for the designated purposes, but this shall not include any other authorized method of disbursement.

§16-1-13. Hospital services revenue account; health facilities long-range plans.

[Repealed].

§16-1-14. Training of employees.

~~To insure adequate standards of public service,~~ The commissioner may provide technical and specialized instruction for employees of the bureau.

~~If upon review of the personnel records of any employee of the bureau, the commissioner is of the opinion that it would be in the best interest of the bureau to provide the employee with additional training or instruction, not to exceed nine months in any four year period, in the field or vocation in which the employee is engaged, the commissioner may, upon approval of the secretary, direct that the employee obtain the additional training or instruction at any place the commissioner considers suitable. Designated attendance of the employee shall be compensated for as a part of regular employment. The commissioner is further authorized to may pay out of federal funds and such state funds as are available to match such federal funds, any required tuition or enrollment fees.~~

§16-1-21. Creation of Diabetes Action Plan.

[Repealed].

ARTICLE 2. LOCAL BOARDS OF HEALTH.

§16-2-2. Definitions.

Unless the context ~~in which~~ used clearly requires a different meaning, as used in this article:

"Appointing authority" means the county commission or municipality, or combination thereof, that authorized the creation or combination of the local board of health, in whatever form it presently exists;

"Basic public health services" means those services that are necessary to protect the health of the public and that a local board of health must provide; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion, and environmental health protection;~~

"Bureau" means the Bureau for Public Health in the Department of Health and Human Resources;

"Clinical and categorical programs" means those services provided to individuals of specified populations and usually focus

on health promotion or disease prevention. These services are not considered comprehensive health care but focus on specific health issues such as breast and cervical cancer, prenatal and pediatric health services, and home health services;

"Combined local board of health" is one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

"Commissioner" means the Commissioner of the Bureau for Public Health, who is the state health officer;

~~"Communicable and reportable disease prevention and control" is one of three areas of basic public health services each local board of health must offer. Services shall include means disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other~~ communicable and reportable diseases;

~~"Community health promotion" is one of three areas of basic public health services each local board of health must offer. Services shall include mean~~ assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

"County board of health" is one form of organization for a local board of health and means a local board of health serving a single county;

"Department" means the West Virginia Department of Health and Human Resources;

~~"Director" or "director of health" means the state health officer. Administratively within the department, the Bureau for Public Health through its commissioner carries out the public health~~

~~function of the department, unless otherwise assigned by the secretary;~~

"Enforcement activity" means the implementation or enforcement of applicable state rules, local rules, and local health department rules;

~~"Enhanced public health services" means services that focus on health promotion activities to address a major health problem in a community, are targeted to a particular population and assist individuals in this population to access the health care system; such as lead and radon abatement for indoor air quality and positive pregnancy tracking. Enhanced public health services are services a local health department may offer;~~

~~"Environmental health protection" is one of three areas of basic public health services each local board of health must offer. Services shall include means efforts to protect the community from environmental health risks including, inspection of housing, institutions, recreational facilities, sewage, and wastewater facilities; inspection and sampling of drinking water facilities; and response to disease outbreaks or disasters;~~

"Guidance" means providing advice to a person, the public, a business, school board, or governmental entity regarding a public health issue or matter. Guidance is not a health order;

"Health order" means an order issued by the local health officer or local health board to protect the public health of the citizens by directing an individual or a discreet group of individuals to take a specific action to protect the health of the public or stop the spread of a communicable disease;

"Imminent public health emergency" means any immediate acute threat, hazard, or danger to the health of the population of the jurisdiction, whether specific or general, whether or not officially declared;

"Local board of health", "local board", or "board" means a board of health serving one or more counties or one or more municipalities or a combination thereof;

"Local health department" means the staff of the local board of health;

"Local health department rule" means a rule issued by the local board of health that has been approved by the appointing authority or was adopted prior to March 4, 2021, or a rule issued by the local board of health that may immediately go into effect because of an imminent public health emergency under §16-2-1(b)(3)(H) of this code;

"Local health officer" means the individual physician with a current West Virginia license to practice medicine or a licensed advanced practice registered nurse that has the ability to independently practice who supervises and directs the activities of the local health department services, staff and facilities and is appointed by the local board of health ~~with approval by the commissioner;~~

"Local rule" means an order adopted by a county commission or an ordinance adopted by a city that properly directs the local health department to implement or enforce the order or ordinance;

"Municipal board of health" is one form of organization for a local board of health and means a board of health serving a single municipality;

"Performance-based standards" means generally accepted, objective standards such as rules or guidelines against which a local health department's level of performance can be measured;

"Primary care services" means health care services, including medical care, that emphasize first contact patient care and assume overall and ongoing responsibility for the patient in health maintenance and treatment of disease. Primary care services are services that local boards of health may offer if the board has determined that an unmet need for primary care services exists in its service area. Basic public health services funding may not be used to support these services;

~~"Program plan" or "plan of operation" means the annual plan for each local board of health that must be submitted to the commissioner for approval;~~

"Secretary" means the Secretary of the Department of Health and Human Resources; ~~and~~

"Service area" means the territorial jurisdiction of the local board of health; and

"State Rule" means a state statute, legislative rule promulgated by a state agency, or an order of the secretary relating to public health that is to be enforced by a local health department.

§16-2-10. Local board of health; meetings; attendance; bylaws; quorum; chairperson selection, powers and duties.

(a) ~~Each~~ A local board of health ~~may~~ shall meet as often as necessary to orderly and efficiently execute its duties and exercise its powers: ~~Provided, That in a service area having a population of less than thirty thousand residents, the board shall meet no fewer than four times per year and in a service area having a population of more than thirty thousand residents, the board shall meet~~ but, no fewer than six times per year. Members of a local board of health shall attend board meetings in compliance with attendance policies established by its bylaws or rules.

(b) ~~Each~~ A local board of health ~~is authorized to and~~ shall adopt and may amend bylaws or rules governing the time and place of its regular meetings, procedures, and method of conducting its meetings. ~~including quorum, meeting attendance policies, requirements for written minutes and board actions as public records, duties and election process for officers, process for filling board vacancies, number, duties, tenure and eligibility of members, and any other matters affecting how the board is organized to perform its duties.~~ A quorum of the board for transacting business is a simple majority of the constituent membership of the board.

(c) ~~Each~~ A local board of health, pursuant to its bylaws, shall elect from its members a chairperson. The chairperson shall serve for a term of one year and may be reelected for additional terms.

The chairperson may, on behalf of the board, sign documents, execute contracts, and otherwise act for and in the name of the board in all matters within its lawful powers and as duly authorized by a majority of the board members.

§16-2-11. Local board of health; powers and duties.

(a) ~~Each~~ A local board of health created, established, and operated pursuant to the provisions of this article shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

(i) (A) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

(ii) (B) Environmental health protection including the promoting and maintaining of clean and safe air, water, food, and facilities, and the administering of public health laws as specified by the commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

(iii) (C) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other communicable and reportable diseases;

(D) Immunizations; and

(E) Threat preparedness.

~~(2) Appoint a local health officer to serve at the will and pleasure of the local board of health with approval of the commissioner;~~

~~(3) Submit a general plan of operation to the commissioner for approval, if it receives any state or federal money for health purposes. This program plan shall be submitted annually and comply with provisions of the local board of health standards administrative rule;~~

(4) (2) Provide equipment and facilities for the local health department that are in compliance with federal and state law;

~~(5) (3)~~ Permit the commissioner to act by and through it, as needed. The commissioner may enforce all public health laws of this state, the rules and orders of the secretary, any county commission orders or municipal ordinances of the board's service area relating to public health, and the rules and orders of the local board within the service area of a local board. The commissioner may enforce these laws, rules, and orders when, in the opinion of the commissioner, a public health emergency exists or when the local board fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health. The expenses incurred shall be charged against the counties or municipalities concerned;

~~(6) (4)~~ Deposit all moneys and collected fees into an account designated for local board of health purposes. The moneys for a municipal board of health shall be deposited with the municipal treasury in the service area. The moneys for a county board of health shall be deposited with the county treasury in the service area. The moneys for a combined local board of health shall be deposited in an account as designated in the plan of combination: *Provided*, That nothing contained in this subsection is intended to conflict with the provisions of §16-1-1 *et seq.* of this code;

~~(7) (5)~~ Submit vouchers or other instruments approved by the board and signed by the local health officer or designated representative to the county or municipal treasurer for payment of

necessary and reasonable expenditures from the county or municipal public health funds: *Provided*, That a combined local board of health shall draw upon its public health funds account in the manner designated in the plan of combination;

~~(8)~~ (6) Participate in audits, be in compliance with tax procedures required by the state, and annually develop a budget for the next fiscal year;

~~(9)~~ (7) Perform public health duties assigned by order of a county commission or by municipal ordinance consistent with state public health laws; ~~and~~

~~(10)~~ (8) Enforce the public health laws of this state and any other laws of this state applicable to the local board; and

(9) Create by rule a fee schedule, as approved by the appointing authority, for those environmental services it provides that are not established by state code.

(b) ~~Each~~ A local board of health ~~created, established, and operated pursuant to the provisions of this article~~ may:

(1) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical, or other persons, to serve as needed and at the will and pleasure of the local board of health. Staff and any contractors providing services to the board shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the board shall be covered by the rules of the Division of Personnel under §29-10-6 of this code. However, any local board of health may, in the alternative and with the consent and approval of the appointing authority, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the appointing authority, adopting and making applicable to the local health department all, or any portion of any order, rule, standard, or compensation rate in

effect in the state merit system as may be desired and as is properly applicable;

(3) (A) Adopt and promulgate and from time to time amend local health department rules consistent with state rules, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation, and spread of disease.

(B) The commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state rules.

(C) When local health department rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization's web page setting forth a notice of proposed action, including the text of the new local health department rule or the amendment and the date, time, and place for receipt of public comment.

(D) All local health department rules shall be approved, disapproved, or amended and approved by the county commission or appointing authority within 30 days of approval from the local board of health, and any local health department rule on which the appointing authority has taken no action within 30 days shall be void: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(E) All local health department rules of a combined local board of health shall be approved, disapproved, or amended and approved by each appointing authority within 30 days of approval from the combined local board of health. If one appointing authority approves and another other does not approve a local health department rule from a combined local board health department, the local health department rule is only in effect in the jurisdiction of the appointing authority which approved the local health

department rule: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(F) An approved local health department rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality, or both, and shall be kept by the clerk or recording officer in a separate book as public records.

(G) A local health department rule currently in effect on March 4, 2021, is not subject to approval, unless amended, from the county commission or appointing authority.

(H) If there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before a local health department rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the local health department rules are effective, and any rule on which the appointing authority has taken no action within 30 days shall be void;

(4) Accept, receive, and receipt for money or property from any federal, state, or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

(5) Assess, charge, and collect fees for permits and licenses for the provision of public health services: *Provided*, That permits and licenses required for agricultural activities may not be assessed, charged, or collected: *Provided, however*, That a local board of health may assess, charge, and collect all of the expenses of inspection of the physical plant and facilities of any distributor, producer, or pasteurizer of milk whose milk distribution, production, or pasteurization facilities are located outside this state but who sells or distributes in the state, or transports, causes, or permits to be transported into this state, milk or milk products for resale, use or consumption in the state and in the service area of the

local board of health. A local board of health may not assess, charge, and collect the expenses of inspection if the physical plant and facilities are regularly inspected by another agency of this state or its governmental subdivisions or by an agency of another state or its governmental subdivisions certified as an approved inspection agency by the commissioner. No more than one local board of health may act as the regular inspection agency of the physical plant and facilities; when two or more include an inspection of the physical plant and facilities in a regular schedule, the commissioner shall designate one as the regular inspection agency;

(6) ~~Assess, charge, and collect fees for services provided by the local health department: *Provided*, That fees for services shall be submitted to and approved by the commissioner: *Provided*, however, That a A local health department may bill health care service fees to a payor which includes, but is not limited to, Medicaid, a Medicaid Managed Care Organization, and the Public Employees Insurance Agency for medical services provided: *Provided further*, That health care service fees billed by a local health department are not subject to commissioner approval and may be at the payor's maximum allowable rate;~~

(7) Contract for payment with any municipality, county, or board of education, for the provision of local health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: *Provided*, That this subsection is not intended to conflict with the provisions of §17C-15-46 of this code: *Provided, however*, That any local board of health offering a child safety car seat program or employee or agent of a local board of health is immune from civil or criminal liability in any action relating to the improper use, malfunction, or inadequate

maintenance of the child safety car seat and in any action relating to the improper placement, maintenance, or securing of a child in a child safety car seat.

(c) The local boards of health are charged with protecting the health and safety, as well as promoting the interests of the citizens of West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

(d) If the Governor declares a statewide public health emergency, the state health officer may develop emergency policies and guidelines that each of the local health departments responding to the emergency must comply with in response to the public health emergency.

§16-2-12. Local health officer; term of appointment; qualifications; reappointment; compensation; and removal.

A local board of health shall appoint a full-time or part-time local health officer. ~~with approval by the commissioner.~~ The local health officer shall be a physician or a licensed advanced practice registered nurse with the ability to practice independently currently licensed in this state and knowledgeable in the science of public health. A local health officer serves at the will and pleasure of the local board for a term of one year and is eligible for reappointment at compensation determined by the local board of health.

A local health officer may be removed from office by the commissioner if the local health officer fails or refuses to carry out the lawful orders or rules of the secretary in the event the commissioner determines a public health emergency exists or if the local health officer fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health. Upon removal, a successor local health officer shall immediately be appointed by the board pursuant to the provisions of this article.

§16-2-13. Local health officer; powers and duties.

(a) A local health officer serves as the executive officer of the local board and under its supervision, a local health officer shall administer and enforce state rules, local rules, and local health department rules within the local board of health's service area.

(b) A local health officer has the following additional powers ~~and duties~~ which may be delegated with the approval of the board:

(1) To attend local board meetings as a nonvoting member. A local health officer serves as secretary at all board meetings and is responsible for maintaining the board's offices, meeting minutes, and records;

(2) To supervise and direct the activities of the local board's health services, employees and facilities;

(3) To ensure that procedures are established for the receipt of communicable or reportable disease reports ~~from local physicians and other reporting sources~~ and for the transmittal of the reports to the commissioner;

(4) To perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area; and

(5) To determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the local board of health.

(c) A local health officer shall perform enforcement activity.

(d) A local health officer may issue guidance.

(e) A local health officer may issue a health order.

§16-2-14. Financial responsibilities of appointing authorities for local boards of health; levies; appropriation of county or municipal general funds for public health purposes; state funding.

The appointing authorities for local boards of health shall provide financial support for the operation of the local health department. The county commission of any county or the governing body of any municipality in which a local board of health is established ~~pursuant to the provisions of this article~~, or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may levy a county or municipal tax to provide funds for the local board of health: *Provided*, That the tax may not exceed 3 cents on each \$100 of assessed valuation of the taxable property in the levying county or municipality, according to the latest assessment.

The county commission of any county or the governing body of any municipality in which a local board of health is established, ~~pursuant to the provisions of this article~~, or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may appropriate and spend money from the county or municipal general funds for public health purposes and to pay the expenses of the operation of the local board of health services and facilities.

The commissioner and the secretary may pay over and contribute to any board of health, ~~created and maintained pursuant to the provisions of this article~~ the sum or sums of money that may be available from funds included in appropriations made for the department. ~~of Health and Human Resources~~. The commissioner may withhold all or part of any funds until a local board of health submits an acceptable plan to correct deficiencies in the local board's program plan.

The bill (Eng. Com. Sub. for H. B. 4113), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4257, Require visitation immediately following a procedure in a health care facility.

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

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

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

ARTICLE 39. PATIENT SAFETY ACT.

§16-39-3. Definitions.

For purposes of this article, the following words and phrases have the following meanings:

"Appropriate authority" means a federal, state, county, or municipal government body, agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste or any member, officer, agent, representative, or supervisory employee thereof;

"Clergy" means an ordained clergy, such as a rabbi, priest, Islamic cleric, associate pastor, licensed minister, or lay minister serving under the direction of the congregation such as the Roman Catholic Eucharistic ministers;

"Commissioner" means the commissioner of the division of health;

"Direct patient care" means health care that provides for the physical, diagnostic, emotional, or rehabilitational needs of a patient or health care that involves examination, treatment, or preparation for diagnostic tests or procedures.

"Discrimination or retaliation" includes any threat, intimidation, discharge, or any adverse change in a health care worker's position, location, compensation, benefits, privileges, or terms or conditions of employment that occurs as a result of a health care worker engaging in any action protected by this article.

"Good faith report" means a report of conduct defined in this article as wrongdoing or waste that is made without malice or

consideration of personal benefit and which the person making the report has reasonable cause to believe is true.

"Health care entity" includes a health care facility, such as a hospital, clinic, nursing facility, or other provider of health care services.

"Health care facility" means:

(1) A hospital licensed pursuant to §16-5B-1 *et seq.* of this code;

(2) A nursing home licensed pursuant to §16-5C-1 *et seq.* of this code;

(3) An assisted living residence licensed pursuant to §16-5D-1 *et seq.* of this code; and

(4) Hospice licensed pursuant to §16-5I-1 *et seq.* of this code.

"Health care worker" means a person who provides direct patient care to patients of a health care entity and who is an employee of the health care entity, a subcontractor, or independent contractor for the health care entity, or an employee of the subcontractor or independent contractor. The term includes, but is not limited to, a nurse, nurse's aide, laboratory technician, physician, intern, resident, physician assistant, physical therapist, or any other person who provides direct patient care.

"Patient" means a person living or receiving services as an inpatient at a healthcare facility.

"Public Health State of Emergency" means a federal or state declaration of a state of emergency arising from or relating to a public health crisis.

"Visitor" means any visitor from the patient's family, or hospice or clergy visiting a patient in a healthcare facility.

"Waste" means the conduct, act, or omission by a health care entity that results in substantial abuse, misuse, destruction, or loss

of funds, resources, or property belonging to a patient, a health care entity, or any federal or state program.

"Wrongdoing" means a violation of any law, rule, regulation, or generally recognized professional or clinical standard that relates to care, services, or conditions and which potentially endangers one or more patients or workers or the public.

§16-39-8. Visitation of a patient in a health care facility.

(a) During a declared public health state of emergency for a contagious disease, a health care facility shall permit visitation of a patient. If the patient's death is imminent, the health care facility shall allow visitation upon request at any time and frequency. In all other instances, the health care facility shall allow visitation once the patient is stable following a surgical procedure and, not less than once every five days: *Provided*, That visitation permitted by any health care entity may not be inconsistent with any applicable federal law, rule, policy, or guidance in effect for the same emergency.

(b) A visitor shall comply with the applicable procedures established by the health care facility.

(c) The health care facility may deny a visitor entry to the health care facility, may subject a visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who does not comply with the applicable procedures established by the health care facility.

(d) A healthcare facility is not liable to a person visiting another person, nor to any other patient or resident of the health care facility, for any civil damages for injury or death resulting from or related to actual or alleged exposure during, or through the performance of, the visitation in compliance with this section, unless the health care facility failed to substantially comply with the applicable health and safety procedures established by the health care facility.

(e) Health care facilities shall provide patients adequate and lawful access to clergy so that patients can practice their religion

by receiving clergy visitation at any reasonable time, as long as the visit does not disrupt clinical care: *Provided*, That if the health care facility limits the number of people able to visit the patient, the member of the clergy is not to be considered within that number.

(f) Clergy shall comply with the applicable visitation procedures established by the health care facility.

The bill (Eng. Com. Sub. for H. B. 4257), as amended, was then ordered to third reading.

Eng. House Bill 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

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

Eng. House Bill 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

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

Eng. Com. Sub. for House Bill 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

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

Eng. Com. Sub. for House Bill 4567, Relating to business and occupation or privilege tax.

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

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

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

ARTICLE 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under article thirteen, chapter eleven of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification and refurbishing services to any aircraft or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of such municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under sections two-a, two-b, two-c, two-d, two-e, two-g, two-h, two-i and two-j, article thirteen of said chapter eleven, as such rates were in effect under said article thirteen, on January 1, 1959, or in excess of one percent of gross income under section two-k of said article thirteen, or in excess of three tenths of one percent of gross value or gross proceeds of sale under section two-m of said article thirteen. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of

authority under the provisions of article twenty-five-a, chapter thirty-three of this code, shall not exceed one half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to article sixteen, chapter five of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any such company maintains its office or offices in this state, whether such income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 shall not be subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under section two-e of said article thirteen shall apply only to gross income derived from contracts entered into after the effective date of such imposition of tax or rate increase, and which effective date shall

not be retroactive in any respect: *Provided, however,* That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least sixty days prior to the effective date of said tax or revision thereof.

(d) *Exemptions.* –

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of section three, article thirteen of said chapter eleven, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided,* That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of section three, article thirteen of chapter eleven, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of section 511 of the Internal Revenue Code of 1986, as amended.

(2) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50% percent of the total amount of the tax: *Provided,* That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50% of the total amount of the tax: *Provided, however,* That effective July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section an automobile is a self-propelled vehicle used primarily for the transportation of passengers and their effects and operated on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a

light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with such legislative regulations as the Tax Commissioner may prescribe. It being the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under section two-c or two-h, article thirteen, chapter eleven of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, such governing body shall have the authority to offer tax credits from such tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of such tax, which shall be similar to those procedures in article thirteen, chapter eleven of this code, as in existence on June 30, 1978, or to those procedures in article ten, chapter eleven of this code, and

shall conform with such provisions as they relate to waiver of penalties and additions to tax.

The bill (Eng. Com. Sub. for H. B. 4567), as amended, was then ordered to third reading.

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in deferred order, with the amendment offered by Senator Karnes to the bill pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, was again reported by the Clerk.

The question being on the adoption of the amendment offered by Senator Karnes to the bill (*shown in the Senate Journal of today, pages 1819 to 1832, inclusive*).

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

The Senate proceeded to the tenth order of business.

Eng. House Bill 2631, Provide for WVDNR officers to be able to work "off duty".

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

Eng. Com. Sub. for House Bill 4050, Defining terms related to livestock trespassing.

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

Eng. House Bill 4296, To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

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

Eng. Com. Sub. for House Bill 4311, Creating criminal penalties for illegal voting activity.

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

Eng. Com. Sub. for House Bill 4329, To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

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

Eng. House Bill 4331, West Virginia's Urban Mass Transportation Authority Act.

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

Eng. Com. Sub. for House Bill 4441, Creating a Class M air rifle stamp.

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

Eng. Com. Sub. for House Bill 4466, Relating to School Building Authority's review of school bond applications.

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

Eng. Com. Sub. for House Bill 4510, To provide that third grade students be competent in reading and math before moving on to fourth grade.

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

At the request of Senator Rucker, unanimous consent being granted, the bill was referred to the Committee on Finance.

Eng. Com. Sub. for House Bill 4540, To update all retirement plans to comport with federal law.

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

Eng. Com. Sub. for House Bill 4570, To allow veterinary telehealth in West Virginia with out of state providers.

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

Eng. Com. Sub. for House Bill 4644, Prohibiting the restriction, regulation, use or administration of lawn care and pest care products.

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

Eng. Com. Sub. for House Bill 4712, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

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

Eng. House Bill 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

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

Eng. Com. Sub. for House Bill 4779, Permit banks the discretion to choose whether to receive deposits from other banks,

savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

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

Eng. House Bill 4842, Relating to obscene matter to minors.

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

Without objection, the Senate returned to the third order of business.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

March 8, 2022

The Honorable Lee Cassis, Clerk
West Virginia Senate
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Two Hundred Twenty-One (221), which was presented to me on March 2, 2022.

Committee Substitute for Senate Bill No. Four Hundred Fifty-Two (452), which was presented to me on March 2, 2022.

You will note that I have approved these bills on March 8, 2022.

Sincerely

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

The Senate again proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 58 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the common law cause of action for public nuisance in West Virginia.

Whereas, the Supreme Court of Appeals of West Virginia held in *Hark v. Mountain Fork Lumber Co.*, 127 W. Va. 586, 595 (1945): "A public nuisance is an act or condition that unlawfully operates to hurt or inconvenience an indefinite number of persons. The distinction between a public nuisance and a private nuisance is that the former affects the general public, and the latter injures one person or a limited number of persons only. Ordinarily, a suit to abate a public nuisance cannot be maintained by an individual in his private capacity, as it is the duty of the proper public officials to vindicate the rights of the public. *Curry v. Timber Co.*, 87 W. Va. 429, 105 S.E. 263; *Davis v. Spragg*, 72 W. Va. 672, 79 S.E. 652; *Talbott v. King*, 32 W. Va. 6, 9 S.E. 48; *Keystone Bridge Company v. Summers et al.*, 13 W. Va. 476. But if the act or condition causes special injury to one or a limited number of persons and substantial permanent damages result which cannot be fully compensated in an action at law, a suit to abate a nuisance so existing may be maintained by a private individual. *Keystone Bridge Company v. Summers et al.*, *supra*." therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the common law cause of action for public nuisance in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with

drafts of any legislation necessary to effectuate its recommendations; and be it

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

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

Respectfully submitted,

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 Concurrent Resolution 59 (originating in the Committee on Transportation and Infrastructure)—Respectfully urging the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects.

Whereas, The federal government has been a vital contributor to West Virginia's infrastructure funding, and West Virginia is expecting increased funding in the future, such as from the Infrastructure Investment and Jobs Act of 2021; and

Whereas, In addition to funding, the availability of materials and speedy processing of permits, including but not limited to environmental permits, is essential to allow infrastructure projects to commence in a timely manner. Delays in the issuance of permits create obstacles that can pause, increase the cost, and prevent infrastructure improvements and construction; and

Whereas, The executive summary of the American Society of Civil Engineer's 2020 Report Card for West Virginia's Infrastructure gave West Virginia a grade point average of "D", with a "D" grade defined as being poor and at risk. The summary noted, in part, that more than 95 percent of the state's 7,291 bridges are maintained by the West Virginia Division of Highways and, of those bridges, 21 percent or 1,531 are structurally deficient, a much higher percentage than the national average of seven percent; and

Whereas, Time is of the essence to ensure that West Virginia's infrastructure is available for save use, and a delay in the ability to obtain necessary permits, such as from the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, may be prevented by streamlining permit processes and securing staffing levels capable of handling requests at once; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby respectfully urges the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, the Administrator of the U.S. Environmental Protection Agency, the Chief of Engineers and Commanding General of the United States Army Corps of Engineers, the Governor of the State of West Virginia, and the Secretary of the West Virginia Department of Environmental Protection.

And reports the same back with the recommendation that it 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 60 (originating in the Committee on Transportation and Infrastructure)—Requesting the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state's outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations.

Whereas, There have been multiple attempts by the West Virginia Legislature to update state law on outdoor advertising, W.Va. Code §17-22-1 *et seq.*, including Senate Bill 116 (2022), Senate Bills 329 and 615 and House Bill 3104 (2021), Senate Bill 497 (2020), House Bill 2701 (2019), Senate Bill 309 and House Bill 2365 (2018), and House Bill 2365 (2017), and some of this legislation sought to allow for temporary signage, including Senate Bill 116 (2022); and

Whereas, The West Virginia Division of Highways (DOH) typically points out in fiscal notes concerning such bills that the bills appear to violate federal law and regulations, as well as the Division of Highways' January 6, 1969, agreement with the Federal Highway Administration (FHWA), and that this 1969 agreement contains no provisions to regulate temporary outdoor advertising signing; and

Whereas, Most sections in W.Va. Code §17-22-1 *et seq.* were enacted in 1939 or 1969 and have not been substantially updated since that time, despite changing needs, at least one U.S. Supreme Court opinion addressing temporary directional signs, and other developments; and

Whereas, Temporary outdoor advertising is an important tool for tourism and economic ventures, and temporary signage could be used to inform the public of fairs, festivals, special sales, and other worthy events; and

Whereas, Oregon law, Oregon Revised Statutes §377.735, makes special mention of temporary signs, indicating that signs that are up for less than 60 days in a year and are no more than 12 square feet and not posted for compensation may be exempt from needing a permit, further indicating that a state may enact temporary sign legislation without violating federal law and without jeopardizing federal funding; and

Whereas, The Division of Highways and the West Virginia Legislature should examine how outdoor advertising laws may be modernized to benefit the state; and

Whereas, The Division of Highways should consider updating Title 157, Series 6, of the Code of State Rules, a rule that contains provisions concerning outdoor advertising; and

Whereas, The Division of Highways and Department of Transportation should examine if and how the State Road Commission of West Virginia's January 6, 1969, agreement with the United States of America, by the Secretary of Transportation, acting through the Federal Highway Administrator, may need to be revised to benefit the state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state's outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

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

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Resolution 35, Congratulating Tug Valley High School Lady Panthers for winning 2021 Class A State Championship in Girls Basketball.

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Resolution 36, Recognizing Tug Valley Cheerleaders for winning 2021 Class A State Championship.

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

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

Eng. Com. Sub. for House Bill 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4563, Provide for a license plate for auto mechanics.

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 Finance.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee references of the bills contained in the foregoing report from the Committee on Transportation and Infrastructure.

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 2798, Relating to requiring the Health Department to mandate mucopolysaccharidosis type 1 (MPS1) test for newborn babies, to be known as Embie's Law.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

Eng. House Bill 3082, Stabilizing funding sources for the DEP Division of Air Quality.

Eng. Com. Sub. for House Bill 4336, Providing for the valuation of natural resources property.

And,

Eng. Com. Sub. for House Bill 4497, Extending the regional jail per diem through July 1, 2023.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4021, Relating to the Medical Student Loan Program.

Eng. House Bill 4110, Relating to staffing levels at multi-county vocational centers.

Eng. Com. Sub. for House Bill 4389, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

Eng. Com. Sub. for House Bill 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan.

And,

Eng. House Bill 4829, Modifying definitions of certain school cafeteria personnel.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4020, Relating to reorganizing the Department of Health and Human Resources.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4020) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator 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 4059, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4662, Relating to licensure of Head Start facilities in this state.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Maynard, 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 4087, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

And reports the same back with the recommendation that it 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. Com. Sub. for House Bill 4112, Provide consumers a choice for pharmacy services.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Maynard, 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 4285, Relating to real estate appraiser licensing board requirements.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4288, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

And reports the same back with the recommendation that it 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. Com. Sub. for House Bill 4340, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

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.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4340) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4355, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
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 4393, To increase the managed care tax if the managed care organization receives a rate increase.

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.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4393) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

Senator Maynard, 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 4492, Creating the Division of Multimodal Transportation.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maynard, 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 4559, Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers.

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, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4560) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, 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 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4629, Relating to procedures for certain actions against the state.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, 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 4634, Relating to occupational licensing or other authorization to practice.

And reports the same back with the recommendation that it 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 4743, Relating to security and surveillance requirements of medical cannabis organization facilities.

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

Respectfully submitted,

Michael J. Maroney,
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 4787, Creating the Highly Automated Motor Vehicle Act.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4826, Relating to e-sports.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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 Baldwin.

(Senator Woodrum in the Chair.)

Remarks were made by Senators Brown, Weld, Trump, and Karnes.

At the request of Senator Stollings, and by unanimous consent, the remarks by Senators Baldwin, Brown, and Weld 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 6:08 p.m., the Senate adjourned until tomorrow, Wednesday, March 9, 2022, at 11 a.m.

WEDNESDAY, MARCH 9, 2022

The Senate met at 11:16 a.m.

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

Prayer was offered by the Honorable Amy N. Grady, a senator from the fourth 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 Tuesday, March 8, 2022,

At the request of Senator Woodrum, 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 Com. Sub. for Senate Bill 181, Creating Core Behavioral Health Crisis Services System.

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

Eng. Senate Bill 213, Establishing licensed professional counseling compact.

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 330, Authorizing DOT to promulgate legislative rules.

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

Eng. Senate Bill 427, Permitting WV Board of Medicine investigators to carry concealed weapon.

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 466, Relating to limitations on civil actions or appeals brought by inmates.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 505, Updating laws on licensure and regulation of money transmitters.

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. Com. Sub. for Senate Bill 505—A Bill to amend and reenact §32A-2-1, §32A-2-2, §32A-2-3, §32A-2-4, §32A-2-8, §32A-2-10, §32A-2-11, §32A-2-13, §32A-2-24, and §32A-2-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding two new sections thereto, designated §32A-2-8a and §32A-2-8b, all relating to the licensure and regulation of money transmitters; updating definitions; eliminating outdated provisions; clarifying the financial institution exemption; permitting the Commissioner of Financial Institutions to participate in the multistate licensing and examination process and to conduct examinations; updating net worth requirements to use a sliding scale; providing information requirements for a change in control and updating the change in control process; specifying requirements for individuals in control of a licensee or applicant; requiring permissible investments to match outstanding obligations; and updating the due process procedure to eliminate the two-step process for revocations and suspensions while preserving the order and hearing requirement.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 505, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 505) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for Senate Bill 553, Relating to powers of WV Health Care Authority.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Maynard and Roberts—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. 553) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities.

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 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes.

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

Eng. Senate Bill 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4295, To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

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, to take effect from passage, of

Eng. Com. Sub. for House Bill 4324, To update collaborative pharmacy practice agreements.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

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

Delegates Foster, Smith, and Young.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4489, Require counties to post open positions on statewide job bank.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. House Bill 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

Executive Communications

Senator Blair (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:



Jim Justice
Governor of West Virginia

March 8, 2022

Senate Executive Message No. 2
Regular Session 2022

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Member, Veterans' Council, Adam Truex, Glen Dale, Marshall County, for the term ending June 30, 2025.
2. For Member, West Virginia Parole Board, Hollis T. Lewis, Charleston, Kanawha County, for the term ending June 30, 2024.
3. For Member, Purchase of Commodities and Services from the Handicapped, Anna Marie Hardy, Hinton, Summers County, for the term ending January 31, 2023.
4. For Member, Southern West Virginia Community and Technical College Board of Governors, Sydney Brown, Logan, Logan County, for the term ending June 30, 2023.
5. For Member, Mountwest Community and Technical College Board of Governors, David A. Earl, Huntington, Wayne County, for the term ending June 30, 2024.
6. For Member, Mountwest Community and Technical College Board of Governors, Mark A. Morgan, Barboursville, Cabell County, for the term ending June 30, 2024.
7. For Member, Mountwest Community and Technical College Board of Governors, Anthony E. Martin, Ona, Cabell County, for the term ending June 30, 2024.
8. For Member, Mountwest Community and Technical College Board of Governors, Jeffrey L. Blatt, Kenova, Wayne County, for the term ending June 30, 2024.

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OFFICE OF THE GOVERNOR

9. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Peter A. Chirico, Huntington, Cabell County, for the term ending June 30, 2023.
10. For Member, Shepherd University Board of Governors, Austin J. Slater, Jr., Shepherdstown, Jefferson County, for the term ending June 30, 2022.
11. For Member, West Virginia Investment Management Board of Trustees, Steve L. Smith, West Union, Doddridge County, for the term ending January 31, 2028.
12. For Member, West Virginia Investment Management Board of Trustees, Marie L. Prezioso, Charleston, Kanawha County, for the term ending January 31, 2028.
13. For Member, Coal Resource Transportation Designation Committee, Jason Bostic, Pratt, Kanawha County, for the term ending June 30, 2023.
14. For Member, West Virginia College and Jumpstart Savings Program Board of Trustees, Justin Williams, Charleston, Kanawha County, for the term ending June 30, 2027.
15. For Member, West Virginia College and Jumpstart Savings Program Board of Trustees, Marguerite Horvath, Morgantown, Monongalia County, for the term ending June 30, 2027.
16. For Member, West Virginia Public Energy Authority, Nicholas S. Preservati, Jr., Huntington, Cabell County, for the term ending June 30, 2024.
17. For Member, Consolidated Public Retirement Board, Woodrow W. Brogan III, Cool Ridge, Raleigh County, for the term ending June 30, 2027.
18. For Member, Workforce Development Board, Diane W. Strong-Treister, Charleston, Kanawha County, for the term ending June 30, 2024.
19. For Member, Workforce Development Board, Kimberly Tieman, South Charleston, Kanawha County, for the term ending June 30, 2024.
20. For Member, Workforce Development Board, Stephanie Ahart, Wallback, Clay County, for the term ending June 30, 2024.
21. For Member, Workforce Development Board, Heather Vanater, Milton, Cabell County, for the term ending June 30, 2024.
22. For Member, Workforce Development Board, Abby S. Reale, Hurricane, Putnam County, for the term ending June 30, 2024.
23. For Member, Workforce Development Board, The Honorable John D. O'Neal IV, Ghent, Raleigh County, for the term ending June 30, 2024.

OFFICE OF THE GOVERNOR

24. For Member, Workforce Development Board, Casey K. Sacks, South Charleston, Kanawha County, for the term ending June 30, 2024.
25. For Member, Workforce Development Board, Lisa Samples White, Charleston, Kanawha County, for the term ending June 30, 2023.
26. For Member, Housing Development Fund, Allen D. Retton, Fairmont, Marion County, for the term ending October 30, 2023.
27. For Director, Division of Natural Resources, Brett W. McMillion, Oak Hill, Fayette County, to serve at the will and pleasure of the Governor.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice", with a stylized flourish at the end.

Jim Justice
Governor

JCJ: mrp

cc: Clerk of the Senate
Assistant Clerk of the Senate
Senate Confirmations Chair

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

On motion of Senator Boley, consideration of the nominations immediately hereinbefore reported was made a special order of business for Saturday, March 12, 2022, at 11 a.m.

Senator Blair (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:



Jim Justice
Governor of West Virginia

March 8, 2022

Executive Message 3
2022 Regular Session

The Honorable Craig Blair
President, West Virginia State Senate
State Capitol, Rm 229M
Charleston, WV 25305

Dear Mr. President:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

211, West Virginia; 2020 Impact Report

Administration, West Virginia Department of; Real Estate Division "2020 Real Property and Lease Report"

Administration, West Virginia Department of; "Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2020"

Administration, West Virginia Department of; State Building Commission Fund

Agriculture, West Virginia Department of; 2020 Annual Report

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2019 and 2020

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2020 and 2021

American Bar Foundation; 2019 Annual Report

Architects, West Virginia Board of; Annual Report FY 2020 & FY 2019

Attorney General's Office, West Virginia; "Seventy-Eighth Biennial Report and Official Opinions of the Attorney General of the State of West Virginia for the Fiscal Years Beginning July 1, 2018, and ending June 30, 2020"

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Attorney General's Office, West Virginia; "2020 Annual Report on the Activities of the Consumer Protection and Antitrust Division"

Attorney General's Office, West Virginia; Annual Report 2020

Barbers and Cosmetologists, State of West Virginia Board of; 2020 Annual Report

Board of Pharmacy, West Virginia; Annual Report on the West Virginia Controlled Substances Monitoring Program

Broadband Enhancement Council, West Virginia; 2020 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2018, to June 30, 2020

Coal Mine Health and Safety, State of West Virginia Board of; 2020 Annual Report

Commerce, West Virginia Department of; Tourism Development Act Report 2020

Commerce, West Virginia Department of; FY20 TIF Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2020 Annual Report

Community Action of Southeastern West Virginia, Inc. (CASEWV); 2021 CASEWV Annual Report for its Head Start and Early Head Start Programs

Consolidated Public Retirement Board; West Virginia State Police Disability Experience Annual Report Fiscal Year 2020

Consolidated Public Retirement Board, West Virginia; 2020 Comprehensive Annual Financial Report

Consumer Advocate, Office of the West Virginia; Consumer Advocate Division 2021 Annual Report

Counseling, State of West Virginia Board of Examiners in; Biennium Report July 1, 2018-June 30, 2020

Dentistry, West Virginia Board of; Report of the Biennium for Fiscal Years 2019 & 2020

Development Office, West Virginia; Annual Report 2019

Development Office, West Virginia; FY 2019 Neighborhood Investment Program Annual Report

Development Office, West Virginia; 2018 Final Report on the Assessment 2015-2017

Engineers, West Virginia State Board of Registration for Professional; Annual Report FY2020

Environmental Protection, West Virginia Department of; 2020 Monthly and Year to Date OOG Permit Issuance Averages

Equal Employment Opportunity, West Virginia; 2020 Annual Report

Fire Commission, West Virginia State; FY 2020 Annual Report

Fire Marshal's Office, West Virginia State; FY 2020 Annual Report

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Forestry, West Virginia Division of; Outdoor Heritage Conservation Funding Annual Report

Forestry, West Virginia Division of; 2020 Stewardship Projects Annual Report

Forestry, West Virginia Division of; Report on Managed Timberland Program

Government Accountability, Foundation for; 2019 Annual Report

Grievance Board, Public Employees; 2020 Annual Report

Health and Human Resources, West Virginia Department of; Annual Report on the Olmstead Plan July 1, 2019-June 30, 2020

Health and Human Resources, West Virginia Department of; "Family Protection Services Board 2020 Annual Report July 1, 2019-June 30, 2020"

Health and Human Resources, West Virginia Department of; Office of Maternal, Child and Family Health (West Virginia Birth Defects) Calendar Years 2018 and 2019 (January-December)

Health and Human Resources, West Virginia Department of; Bureau for Public Health- West Virginia Office of Medical Cannabis Biennial Report 2021

Health and Human Resources, West Virginia Department of; Bureau for Behavioral Health- West Virginia Family & Community Support Program FY 2020 Annual Report

Health and Human Resources, West Virginia Department of; West Virginia Women's Commission 2020 Annual Report

Highways, West Virginia Division of; Annual Report (The Complete Streets Advisory Board)

Homeland Security, West Virginia Department of; Accomplishments 2017-2020 Report

Human Rights Commission, West Virginia; Annual Report 2020

Independent Living Council, West Virginia Statewide; "The State of Education for Children with Disabilities in West Virginia-Education Task Force; Annual Report 2019-2020"

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Consumer Advocate Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2020 Annual Medical Malpractice Report

Judicial Compensation Commission, West Virginia; Report of the Judicial Compensation Commission 2020

Justice and Community Services, Division of Administrative; "Justice Reinvestment Initiative S.B. 371 July 1. 2019-June 30, 2020, Annual Report"

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Justice and Community Services, Division of Administrative; "Juvenile Justice Subcommittee September 1, 2019-August 31, 2020, Annual Report"

Justice and Community Services, Division of Administrative; "Sexual Assault Forensic Examination (SAFE) Commission Annual Report September 1, 2019-August 31, 2020"

Justice and Community Services, Division of Administrative; "West Virginia Community Corrections Act July 1, 2019-June 30, 2020, Annual Report"

Justice and Community Services, Division of Administrative; "Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1, 2019-June 30, 2020"

Land Trust, West Virginia; Annual Report 2019

Legislative Claims Commission, West Virginia; Supplemental Report December 2020

Legislative Claims Commission, West Virginia; November 2020 Report of the Legislative Claims Commission

Lottery, West Virginia; "Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019, and 2018"

Lottery, West Virginia; 2020 Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2020, and 2019

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 29, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending March 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending April 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending September 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending October 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending December 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending January 31, 2021

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2021

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report 2020

OFFICE OF THE GOVERNOR

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2019-June 30, 2020

National Coal Heritage Area Authority; 2020 Annual Report

Natural Resources, West Virginia Division of; 2019-2020 West Virginia Division of Natural Resources Annual Report

Nursing Home Administrators Licensing Board; Annual Report 2020

Occupational Therapy, West Virginia Board of; Annual Report 2019-2020

Osteopathic Medicine, West Virginia School of; Annual Report

Privacy Office, West Virginia State; 2018-2019 Annual Report

Psychologists, West Virginia Board of; 2019-2020 Annual Report

Public Service Commission, West Virginia; State of West Virginia Public Utility Assessments Tax Year 2021

Public Service Commission, West Virginia; 2020 Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecasts for 2021-2030

Public Transit, West Virginia Division of Transportation/Division; 2019 Annual State Safety Oversight Report to the Governor

Regional Councils, West Virginia Association of; 2019 Annual Report

Regional Intergovernmental Council; 2020 Annual Report Boone, Clay, Kanawha, and Putnam

Rehabilitation Services, West Virginia Division of; 2021 Annual Report

Risk and Insurance Management, State of West Virginia Department of Administration; BRIM Annual Report 2020

Ron Yost Personal Assistance Services; 2020 Annual Report

Southern States Energy Board; Annual Report 2020

Tax Department, West Virginia State; "Manufacturing Property Tax Adjustment Credit Report to the Joint Committee on Government and Finance July 1, 2020"

Tax Department, West Virginia State; Tax Credit Review and Accountability Report for the West Virginia Economic Opportunity Tax Credit and the West Virginia Manufacturing Investment Tax Credit

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2021

Transportation, West Virginia Department of; Division of Public Transit- State Safety Oversight Program-2020 Annual Safety Report to the Governor

Transportation, West Virginia Department of; The Office of Administrative Hearings Annual Report Fiscal Year 2020

OFFICE OF THE GOVERNOR

Transportation, West Virginia Department of; Aeronautics Commission 2020 Annual Report to the Governor

Treasurer, West Virginia State; Cash Management Improvement Act CIMA Annual Report for fiscal years 2020

Treasury Investments, West Virginia Board of; "Audited Financial Statements with Supplementary & Other Financial Information Year Ended 6/30/20"

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended

Veterinary Medicine, West Virginia Board of; Biennium Report 2019 and 2020

Water Development Authority, West Virginia; 2020 Annual Report

Water Sanitation Commission, Ohio River Valley; Annual Report

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice", is written over a printed name and title.

Jim Justice
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate
Division of Culture and History

Senator Blair (Mr. President) next laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:



Jim Justice
Governor of West Virginia

March 8, 2022

EXECUTIVE MESSAGE NO. 4
2022 REGULAR SESSION

The Honorable Craig Blair
President, Senate of West Virginia
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of April 8, 2021 through March 7, 2022.

Very truly yours,


Jim Justice
Governor

cc: Lee Cassis, Senate of West Virginia
Division of Archives and History

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The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2022, 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. 419), Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments.

(S. B. 448), Developing policies and procedures for Statewide Interoperability Executive Committee.

(Com. Sub. for S. B. 520), Increasing financial penalties for ransomware attacks.

(Com. Sub. for S. B. 523), Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority.

(Com. Sub. for S. B. 524), Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History.

(Com. Sub. for S. B. 537), Providing additional firefighters and security guards for National Guard.

(S. B. 542), Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development.

(S. B. 597), Relating to PSC underground facilities damage prevention and one-call system.

(Com. Sub. for S. B. 598), Establishing partnerships and aid for at-risk veterans to combat suicide.

(**S. B. 638**), Changing hearing and notice provisions for failing or distressed public utilities.

(**Com. Sub. for S. B. 650**), Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

(**Com. Sub. for H. B. 4084**), Relating to advanced recycling.

(**Com. Sub. for H. B. 4126**), Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

And,

(**H. B. 4773**), Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
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

Eng. Com. Sub. for House Bill 4005, Relating to fetal body parts.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4005) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, 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

Eng. Com. Sub. for House Bill 4012, Prohibiting the showing of proof of a COVID-19 vaccination.

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.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4012) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources 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

Eng. Com. Sub. for House Bill 4098, Relating to Geothermal Energy Development.

With an amendment from the Committee on Energy, Industry, and Mining pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4098) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator 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 4351, Relating to the implementation of an acuity-based patient classification system.

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.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4351) contained in the

preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to 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

House Concurrent Resolution 5, James "Big Jim" Shaffer Memorial Bridge.

House Concurrent Resolution 39, PFC Donald L. Stuckey Memorial Bridge.

House Concurrent Resolution 56, Roy Lee Shamblin Memorial Bridge.

House Concurrent Resolution 89, Hajash Brothers Memorial Bridge.

House Concurrent Resolution 90, U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge.

House Concurrent Resolution 95, Clemmer Brothers WWII Veterans Memorial Bridge.

And,

House Concurrent Resolution 96, U. S. Air Force Captain Perry Thomas Rose Memorial Road.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Clements, unanimous consent being granted, the resolutions (H. C. R. 5, 39, 56, 89, 90, 95, and 96) contained in the preceding report from the Committee on Transportation and Infrastructure were referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

Senator Phillips offered the following resolution:

Senate Resolution 52—Highlighting West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets.

Whereas, The tragic events in Ukraine are bringing renewed attention to national security issues and world energy policies; and

Whereas, Multiple NATO countries remain dependent on Russian energy, i.e. coal, gas, and oil; and

Whereas, Remarkably, even the United States is consuming shipments of Russian coal to generate electricity and oil to fuel its energy needs; and

Whereas, Dependence on Russian coal, gas, and oil throughout Europe is clearly limiting an effective response from NATO countries; and

Whereas, World sanctions against Russia are having limited effects because energy sales are exempt from sanctions; and

Whereas, Countries, including the United States, by purchasing Russian energy, are sending payments to Russia, funding their military actions; and

Whereas, Current national energy policies have and continue to jeopardize domestic national security and our ability to assist our allies overseas; and

Whereas, By shutting down coal-fired power plants, curtailing coal output, prohibiting natural gas production, and pipeline development, and importing Russian energy, current policies have

weakened our energy security and our capacity to help our allies overseas; and

Whereas, The national security and energy independence of the United States is of paramount importance and has taken a second seat to climate policies and environmental interests; and

Whereas, West Virginia energy, such as coal and natural gas, shall hereinafter be referred to as 'Freedom Fuel,' and our coal workers referred to as 'Freedom Miners'; and

Whereas, Russia currently supplies about 30 percent of the metallurgical coal used by European steelmakers and about 60 percent of the thermal coal used to generate electricity; and

Whereas, West Virginia coal, already preferred by European electricity generators and steel manufacturers for its quality and stable supply history, can offset European needs for Russian coal; and

Whereas, If natural gas supplies are further disrupted, coal-fired power plants can generate more electricity to offset the lost generation from natural gas plants; and

Whereas, West Virginia coal can be converted to liquid fuels to address oil and diesel fuel shortages; therefore, be it

Resolved by the Senate:

That West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets; and, be it

That the State Executive, State Legislature, and industry leaders convene immediately to discuss the situation; and, be it

Further Resolved, That the State Executive and State Legislature is urged to identify and remove barriers and obstacles to establish a path forward for West Virginia coal and natural gas to be extracted and transported to NATO countries; and, be it

Further Resolved, That the Legislature is urged to create a special committee under the leadership of the House of Delegates' and Senate's Energy Committee Chairmen and select committee members to develop policies, legislation, and regulatory reforms necessary to effectuate the intent and scope of the charge outlined herein; and, be it

Further Resolved, That the Legislature is urged to unleash the power of West Virginia's Freedom Fuels for a stronger nation and safer, more secure global community.

Which, under the rules, lies over one day.

Senator Takubo offered the following resolution:

Senate Resolution 53—Designating March 10, 2022, as World Kidney Day at the Legislature.

Whereas, There are an estimated 37 million adults in the U.S. who suffer from kidney disease, and one in three adults in the U.S. are at risk; and

Whereas, Most people are unaware that risk factors for kidney disease include diabetes, heart disease, high blood pressure, obesity, and a family history of diabetes; and

Whereas, People who are Black or African American and Hispanic or of Latino descent, are at an increased risk of developing kidney disease and it is critical that attention be brought to this often-overlooked health crisis; and

Whereas, The Senate furthermore recognizes the month of March as National Kidney Month; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 10, 2022, as World Kidney 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 National Kidney Foundation.

Which, under the rules, lies over one day.

Senators Caputo, Beach, Clements, and Maroney offered the following resolution:

Senate Resolution 54—Congratulating the Fairmont Senior High School Polar Bears football team for winning the 2021 Class AA state championship.

Whereas, The Fairmont Senior High School football team had another remarkable year on the gridiron, resulting in the Polar Bears winning back-to-back state titles for the first time in school history, and their third title in four years; and

Whereas, The Fairmont Senior High School football team qualified for the 2021 playoffs with a 26-7 victory over their rival East Fairmont and finished the regular season with a record of 5-4. The victory secured a playoff berth and the #16 seed for the Polar Bears; and

Whereas, The Fairmont Senior High School football team had a tough road to travel through the playoffs, which began with a hard-fought victory over the #1 seed, Herbert Hoover, 30-28; in the second round, the Polar Bears defeated the #8 seed, Robert C. Byrd, 33-28; in the semi-finals, the Polar Bears dominated the #5 seed, Poca, 41-7; and

Whereas, The Fairmont Senior High School football team lined up against the #2 seed, Independence, in the championship game. The Polar Bears and the Patriots endured a heavyweight contest which had all the makings of a great game, including solid defense, trick plays, and a close score; and

Whereas, In the end, the Polar Bears made history and defeated the Patriots 21-12, becoming only the second team to win the championship as a #16 seed since the advent of the 16-team playoff format; and

Whereas, The Polar Bear football team is led by head coach Nick Bartic, who hails from a football family. His father, Martin 'Sonny' Bartic played for Fairmont State in the 1967 NAIA

Championship and went on to become a longtime coach at Rivesville High School; and

Whereas, The 2021 Polar Bears 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 one 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 Polar Bears football team for winning the 2021 Class AA state championship; and, be it

Further Resolved, That the Senate commends the team, coaches, staff, cheerleaders, students, and the community for their outstanding accomplishment; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this to the Fairmont Senior High School football team.

Which, under the rules, lies over one day.

Senator Romano offered the following resolution:

Senate Resolution 55—Congratulating the Bridgeport High School baseball team for winning the 2021 Class AAA state championship.

Whereas, The Bridgeport High School baseball team, also referred to as The Tribe, is led by Coach Robert Shields, and is one of the most successful high school baseball programs in state history; and

Whereas, Following six straight Class AA state baseball championships (2014-2019), the Bridgeport High school baseball team got bumped from Class AA to Class AAA by exceeding the limit by one student; and

Whereas, The Tribe baseball team, although being the smallest school in Class AAA, competed against the state's largest schools,

including schools with over 1,000 more students, and fought their way to the 2021 Class AAA baseball championship, marking the school's seventh consecutive and ninth overall state baseball title; and

Whereas, The Bridgeport Indians overcame a 3-1 deficit in the championship game, scoring three runs in the fourth, fifth, and sixth innings to defeat the Number 1 ranked Hurricane Redskins 10-4, breaking a 32-game winning streak by the Redskins and ending The Tribe's championship season with a record of 34-4; and

Whereas, Coach Shields describes his players, over the years, as "grinders," and told The Bridgeport News after his seventh championship that his team had a great approach and demonstrated resilience playing with excellence both offensively and defensively; and

Whereas, The Tribe's centerfielder Nathan 'Nate' Paulsen was named 'State Baseball Player of the Year' by the West Virginia Sports Writers Association, a first time honor for a Bridgeport player, and he also was named to the Class AAA All-State First Team as Captain along with teammates Ryan Goff and Cam Cole. Teammates Aiden Paulson and Ben McDougal were named to Class AAA All-State Second Team; and Chris Harbet, Drew Hogue, JD Love, and Frank Why were named Class AAA Honorable Mentions; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Bridgeport High School baseball team for winning the 2021 Class AAA state championship; and, be it

Further Resolved, That the Senate commends the Bridgeport High School baseball team for their outstanding accomplishments on the diamond and extends its sincere appreciation and gratitude to the coach, players, parents, and school community for their commitment to excellence; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Bridgeport High School and Coach Robert Shields.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 58, Requesting Joint Committee on Government and Finance study common law cause of action for public nuisance.

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 59, Respectfully urging executive branches of US government and State of WV to provide adequate staffing for governmental agencies involved in infrastructure projects.

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

The question being on the adoption of the resolution, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 59) adopted.

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

Senate Concurrent Resolution 60, Requesting Joint Committee on Government and Finance study outdoor advertising and propose updates to state's outdoor advertising laws and regulations.

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 Resolution 35, Congratulating Tug Valley High School Lady Panthers for winning 2021 Class A State Championship in Girls Basketball.

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.

Senate Resolution 36, Recognizing Tug Valley Cheerleaders for winning 2021 Class A State Championship.

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.

Senate Resolution 51, Designating month of February as National Cancer Prevention Month at Legislature.

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

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 Baldwin, and by unanimous consent, the remarks by Senators Stollings and Takubo regarding the adoption of Senate Resolution 51 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2096, Reinstating the film investment tax credit.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Tuesday, March 8, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the bill was withdrawn.

On motion of Senator Nelson, 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 13X. WEST VIRGINIA FILM INDUSTRY INVESTMENT ACT.

§11-13X-3. Definitions.

(a) *General.* — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section, unless

a different meaning is clearly required by the context in which the term is used.

(b) *Terms defined.* —

(1) "Commercial exploitation" means reasonable intent for public viewing for the delivery medium used.

(2) "Direct production expenditure" means a transaction that occurs in the State of West Virginia or with a West Virginia vendor and includes:

(A) Payment of wages, fees, and costs for related fringe benefits provided for talent, management or labor that are subject to West Virginia income tax;

(B) Payment to a personal services corporation for the services of a performing artist if:

(i) The personal services corporation is subject to West Virginia income tax on those payments; and

(ii) The performing artist receiving payments from the personal services corporation is subject to West Virginia income tax; and

(C) Any of the following provided by a West Virginia vendor:

(i) The story and scenario to be used by a qualified project;

(ii) Set construction and operations, wardrobe, accessories, and related services;

(iii) Photography, sound synchronization, lighting, and related services;

(iv) Editing and related services;

(v) Rental of facilities and equipment;

(vi) Leasing of vehicles;

(vii) Food or lodging;

(viii) Airfare if purchased through a West Virginia-based travel agency or travel company;

(ix) Insurance coverage and bonding if purchased through a West Virginia-based insurance agent; and

(x) Other direct costs of producing a qualified project in accordance with generally accepted entertainment industry practices: Provided, That "direct production expenditure" shall not include depreciation of any item that has less than one full year of depreciable life.

(3) "Eligible company" means a person or business entity engaged in the business of producing film industry productions. The term excludes state agencies.

(4) "Feature length" means in excess of 40 minutes.

(5) "Film industry production" means a qualified project intended for reasonable national or international commercial exploitation.

~~(6) "Film office" means the West Virginia Film Office, which is a division of the West Virginia Department of Commerce~~

"Multi-state distribution" means reaching at least one other state besides West Virginia.

(7) "Postproduction expenditure" means a transaction that occurs in West Virginia or with a West Virginia vendor after the completion of principal photography, including editing and negative cutting; Foley recording and sound effects; automatic dialogue replacement (also known as ADR or dubbing); special effects or visual effects, including computer-generated imagery or other effects; scoring and music editing; sound editing; beginning and end credits; soundtrack production; subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution, or expense payments.

(8) "Qualified project" means a feature length theatrical or direct-to-video motion picture, a made-for-television motion

picture, ~~a commercial~~ a music video, commercial still photography, a television pilot program, a television series, and a television mini-series that incurs a ~~minimum of \$25,000~~ cumulative amount of \$50,000 in a calendar year in direct production expenditures and post-production expenditures ~~as defined by this subsection~~, in West Virginia or any combination of projects not previously claimed that would qualify for the credit except for cost, and that combined meets or exceeds the cumulative amount of \$50,000 in a calendar year. The term excludes news or current affairs programming, a weather or market program, ~~an interview or a talk show~~, a sporting event or show, an awards show, a gala, a production that solicits funds, a home shopping program, a program that primarily markets a product or service, political advertising, or a concert production.

A qualified project may be produced on any single media or multimedia program that:

(A) Is fixed on film, digital medium, videotape, computer disk, laser disc, or other similar delivery medium;

(B) Can be viewed or reproduced;

(C) Is not intended to and does not violate §61-8C-1 *et seq.* of this code;

(D) Does not contain obscene matter or sexually explicit conduct, as defined by §61-8A-1 *et seq.* of this code;

(E) Is intended for reasonable commercial exploitation for the delivery medium used whether delivery is in state or multi-state distribution; and

(F) Does not contain content that, in the sole discretion of the Office of Economic Development, negatively portrays the state of West Virginia. ~~in a significantly derogatory manner~~

~~(9)~~ "Tax Commissioner" means the West Virginia State Tax Commissioner or his or her designee.

§11-13X-4. Creation of the tax credit.

(a) An eligible company may apply for, and the Tax Commissioner shall allow, a nonrefundable tax credit in an amount equal to the percentage specified in §11-13X-5 of this code of:

(1) Direct production expenditures incurred in West Virginia that are directly attributable to the production in West Virginia of a qualified project ~~and that~~ which expenditures occur in West Virginia or with a West Virginia vendor; and

(2) Postproduction expenditures incurred in West Virginia that are:

(A) Directly attributable to the production of a qualified project; and

(B) For services performed in West Virginia.

(b) Expenditures utilized by an eligible company for purposes of calculating the tax credit authorized by this article shall in no event be utilized by the eligible company for the purpose of calculating or qualifying investment for claiming the economic opportunity tax credit authorized by §11-13Q-1 *et seq.* of this code or the manufacturing investment tax credit authorized by §11-13S-1 *et seq.* of this code.

§11-13X-5. Amount of credit allowed; limitation of the credits.

(a) *Base allowance.* — The amount of credit allowed to every eligible company, except as provided in subsection (b) of this section, is 27 percent.

(b) *Extra allowance for hiring of local workers.* — Any amount allowed in subsection (a) of this section shall be increased by an additional four percent if the eligible company, or its authorized payroll service company, employs 10 or more West Virginia residents as part of its full-time employees working in the state or as apprentices working in the state.

(c) *Application of the credits.* — The tax credit allowed under this section shall be applied to the eligible company's state tax liability as provided in §11-13X-7 of this code.

~~(d) *Limitation of the credits.* — No more than \$5 million of the tax credits may be allocated by the film office in any given West Virginia state fiscal year office shall allocate the tax credits in the order the applications therefor are received.~~

§11-13X-6. Requirements for credit.

(a) In order for any eligible company to claim a tax credit under this article, it shall comply with the following requirements:

(1) If the qualified project contains production credits, the eligible company shall agree, upon request by the ~~film office~~ Office of Economic Development, to recognize the State of West Virginia with the following acknowledgment in the end credit roll: "Filmed in West Virginia with assistance of the West Virginia Film Industry Investment Act";

(2) Apply to the ~~film office~~ Office of Economic Development on forms and in the manner the ~~film office~~ Office of Economic Development may prescribe; ~~and~~

~~(3) If an eligible company submits a proposal to perform a qualified project for a state agency, the eligible company shall indicate its intention to claim the tax credit provided by this article; and~~

~~(3)~~ (4) Submit to the ~~film office~~ Office of Economic Development information required by the ~~film~~ office to demonstrate conformity with the requirements of this section and shall agree in writing:

(A) To pay all obligations the eligible company has incurred in West Virginia; and

(B) To delay filing of a claim for the tax credit authorized by this article until the ~~film office~~ Office of Economic Development

delivers written notification to the Tax Commissioner that the eligible company has fulfilled all requirements for the credit.

The ~~film-office~~ Office of Economic Development shall determine the eligibility of the company and the qualification of each project, and shall report this information to the Tax Commissioner in a manner and at times the ~~film-office~~ Office of Economic Development and the Tax Commissioner shall agree upon.

(b) Upon completion of a qualified project:

(1) An eligible company shall have filed all required West Virginia tax reports and returns and paid any balance of West Virginia tax due on those returns;

(2) All claims for the tax credit shall be filed with an expense verification report prepared by an independent certified public accountant, utilizing "agreed upon procedures" which are prescribed by the ~~film-office~~ Office of Economic Development in accordance with generally accepted auditing standards in the United States. The certified public accountant will render a report as to the qualification of the credits, consistent with guidelines to be determined by the ~~film office~~ Office of Economic Development and approved by the Tax Commissioner; and

(3) An eligible company claiming an extra allowance for employing local workers shall submit to the ~~film-office~~ Office of Economic Development documentation verifying West Virginia residency for all individuals claimed to qualify for the extra allowance. The documentation shall include the name, home address, and telephone number for all individuals used to qualify for the extra allowance.

(c) If the requirements of this section have been complied with, the ~~film-office~~ Office of Economic Development shall approve the film tax credit and issue a document granting the appropriate tax credit to the eligible company and shall report this information to the Tax Commissioner.

§11-13X-7. Application of credit to state taxes.*(a) Credit allowed. —*

Beginning in the taxable year that the expenditures permitted under section four of this article are incurred, eligible companies and owners of eligible companies, as described in subsection (d) of this section, are permitted a credit, as described in section five of this article, against the taxes imposed by articles ~~twenty-three~~, twenty-four and twenty-one of this chapter, in that order, as specified in this section.

~~(b) Business franchise tax. —~~

~~The credit is first applied to reduce the taxes imposed by article twenty-three of this chapter for the taxable year, determined after application of the credits against tax provided in section seventeen of said article, but before application of any other allowable credits against tax.~~

~~(e) (b) Corporation net income taxes. —~~

After application of subsection (b) of this section, any unused credit is next applied to reduce the taxes imposed by article twenty-four of this chapter for the taxable year, determined before application of allowable credits against tax.

~~(d) (c) Personal income tax. —~~

(1) If the eligible taxpayer is an electing small business corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as amended), a partnership, a limited liability company that is treated as a partnership for federal income tax purposes or a sole proprietorship, then any unused credit, after application of subsections (b) and (c) of this subsection, is allowed as a credit against the taxes imposed by article twenty-one of this chapter on the income from business or other activity subject to tax under article twenty-three of this chapter or on income of a sole proprietor attributable to the business.

(2) Electing small business corporations, limited liability companies, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

§11-13X-8. Uses of credit; unused credit; carry forward; carry back prohibited; expiration and forfeiture of credit.

(a) No credit is allowed under this section against any employer withholding taxes imposed by §11-21-1 *et seq.* of this code.

(b) If the tax credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subsections (b), (c), or (d) of §11-13X-7 of this code, for that taxable year, the excess may be applied against those taxes, in the order and manner stated in §11-13X-7 of this code, for succeeding taxable years until the earlier of the following:

(1) The full amount of the excess tax credit is used;

(2) The expiration of the second taxable year after the taxable year in which the expenditures occurred. The tax credit remaining thereafter is forfeited; or

(3) The excess tax credit is transferred or sold.

(c) No carryback is allowed to a prior taxable year that does not have qualified expenditures for the amount of any unused portion of any annual credit allowance.

(d) The transfer or sale of this credit does not extend the time in which the credit can be used. The carry forward period for credit that is transferred or sold begins on the date on which the credit was originally issued by the ~~film office~~ Office of Economic Development.

(e) Any tax credit certificate issued in accordance with this article, which has been issued to an eligible company, and to the extent not previously claimed against the tax of the eligible company or the owner of the certificate, may be transferred or sold

by such eligible company to another West Virginia taxpayer, subject to the following conditions:

(1) A single transfer or sale may involve one or more transferees, assignees or purchasers. A transfer or sale of the credits may involve multiple transfers to one or more transferees, assignees or purchasers;

(2) Transferors and sellers shall apply to the ~~film~~ office for approval of any transfer, sale, or assignment of the tax credit. Any amount of the tax credit that has been transferred or assigned shall be subject to the same limitations and conditions that apply to the eligible company's or seller's entitlement, use and application of the credit. The application for sale, transfer or assignment of the credit shall include the transferor's tax credit balance prior to transfer, the credit certificate number, the name of the seller, the transferor's remaining tax credit balance after transfer, if any, all tax identification numbers for both transferor and transferee, the date of transfer, the amount transferred, a copy of the credit certificate and any other information required by the ~~film-office~~ Office of Economic Development or the Tax Commissioner.

(3) The ~~film-office~~ Office of Economic Development shall not approve the transfer or assignment of a tax credit if the seller or transferor has an outstanding tax obligation with the State of West Virginia for any prior taxable year.

(f) The transferee, assignee or purchaser shall apply such credits in the same manner and against the same taxes as specified in this article.

(g) For purposes of this chapter, any proceeds received by the eligible company or transferor for its assignment or sale of the tax credits allowed pursuant to this section are exempt from the West Virginia consumers sales and service tax, use tax, the corporate net income tax, and personal income tax.

(h) The Tax Commissioner shall not seek recourse against the transferee for any portion of the credit that may be subsequently disqualified.

Failure to comply with this section will result in the disallowance of the tax credit until the seller or transferor is in full compliance.

§11-13X-11. Tax credit review and accountability.

(a) Beginning on the first day of the third taxable year after the passage of this article and every two years thereafter, the ~~film office~~ Office of Economic Development shall submit to the Governor, the President of the Senate and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the Film Industry Investment Act during the most recent two-year period for which information is available. The criteria to be evaluated shall include, but not be limited to, for each year of the two-year period:

- (1) The number of eligible companies claiming the credit;
- (2) The dollar amount of tax credit certificates issued to taxpayers;
- (3) The number of new businesses created by the tax credit;
- (4) The number of new jobs, if any, created by the tax credit;
- (5) The amount of direct expenditures made on qualified projects; and
- (6) The cost of the credit.

(b) Eligible companies claiming the credit shall provide any information the Tax Commissioner and the ~~film office~~ Office of Economic Development may require to prepare the report: *Provided*, That the information provided is subject to the confidentiality and disclosure provisions of §11-10-5d and §11-10-5s of this code. ~~However, ;~~ *Provided, however, That* notwithstanding the provisions of §11-10-5d and §11-10-5s of this code, the Tax Department is hereby authorized to disclose to the ~~film and to the development office~~ Office of Economic Development such tax information as may be necessary to compile

the report required by this section and the report required by §11-13X-12 of this code.

§11-13X-12. Economic development; utilization of state locations, talent, and production companies.

(a) ~~The West Virginia Development Office~~ Office of Economic Development, in consultation and coordination with the appropriate public and private entities, shall promote, foster, encourage, and monitor the development of the film industry in this state as part of its comprehensive economic development strategy for West Virginia and report recommendations for expanding the industry in the state to the Governor and the Joint Committee on Government and Finance annually on or before December 1.

(b) The West Virginia Office of Economic Development shall coordinate with property owners, musicians and other performers, and other managers of resources suitable for film production to develop a database of locations, music, and other resources available for incorporation into film projects. To the greatest feasible extent, the Economic Development Office shall establish methods for interface with national and international databases of these resources that are available to, or used by, film and video production teams in the identification and selection of location, music, and other resources. The Economic Development Office shall also implement means for property owners and for staff in the field to connect to the state's database and to submit entries or nominations thereto.

§11-13X-13. Effective date, elimination of film tax credits, preservation of film tax credits earned prior to the sunset date; cessation of the West Virginia Film Office.

(a) The credit allowed by this article shall be allowed upon eligible expenditures occurring after December 31, 2007 and before January 16, 2018, and shall be allowed upon eligible expenditures occurring on and after the date specified in subsection (d) of this section and before the termination date specified therein.

~~(b) The amendments to this article enacted in the year 2009 shall apply to all taxable years beginning after December 31, 2007, and shall apply with retroactive effect with relation to taxable years beginning prior to the date of passage of such amendments.~~

~~(c) No tax credits authorized under this article shall be issued following the effective date of legislation establishing this subsection, §11-13X-13(d), and §11-13X-13(e) of this code in the year 2018. Notwithstanding any provision of this article to the contrary, no entitlement to any tax credit under this article may result from, and no credit is available to any person for, expenditures incurred following the effective date of this subsection~~

~~(d) (b) Notwithstanding the provisions of §11-13X-13(e) of this code, film Film tax credits to which a taxpayer has gained lawful entitlement prior to the effective date of this subsection, after December 31, 2007, and before January 16, 2018 may continue to be applied against tax liabilities, subject to the conditions, limitations, and constraints applicable to such credit under this article, until exhausted or otherwise terminated in accordance with the terms of this article and this code. Film tax credits to which a taxpayer has gained lawful entitlement prior to the effective date of this subsection may be transferred in accordance with §11-13X-8 of this code, subject to the conditions, limitations, and constraints applicable to such credit under this article, until exhausted or otherwise terminated in accordance with the terms of this article and this code.~~

~~(e) (c) Effective July 1, 2018, all operations of the West Virginia Film Office shall cease. To the extent necessary to settle, finalize, and conclude business relating to outstanding film tax credits issued prior to the effective date of the bill, the Division of Tourism is hereby authorized to administer such duties for that limited purpose.~~

(d) The amendments to this article enacted in the year 2022 shall apply to all taxable years beginning on or after July 1, 2022: Provided, That, unless sooner terminated by law, the film investment tax credit will terminate on December 31, 2027. No

entitlement to any tax credit authorized by this article may result from, and no credit is available to any person for, expenditures incurred subsequent to December 31, 2027. Film tax credits to which a taxpayer has gained lawful entitlement on or after July 1, 2022, and on or before December 31, 2027, may continue to be applied against tax liabilities, subject to the conditions, limitations, and constraints applicable to such credit under this article, until exhausted or otherwise terminated in accordance with the terms of this article and this code. Film tax credits to which a taxpayer has gained lawful entitlement on or after July 1, 2022, and on or before December 31, 2027, may be transferred in accordance with §11-13X-8 of this code, subject to the conditions, limitations, and constraints applicable to such credit under this article, until exhausted or otherwise terminated in accordance with the terms of this article and this code.

Engrossed Committee Substitute for House Bill 2096, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2096 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes—1.

Absent: Roberts—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. 2096) passed.

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

Eng. Com. Sub. for House Bill 2096—A Bill to amend and reenact §11-13X-3, §11-13X-4, §11-13X-5, §11-13X-6, §11-13X-7; §11-13X-8, §11-13X-11, §11-13X-12, and §11-13X-13 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Film Industry Investment Act; reinstating the film investment tax credit; providing the coordination and management by the West Virginia Office of Economic Development; defining terms; excluding commercials and promotional videos from the definition of qualified project; excluding short-term depreciation from credit; raising the minimum threshold of cumulative annual expenditures necessary to qualify for credit; eliminating limitation of credit; requiring the Economic Development Office to develop a database of locations, music, and other resources to be made available to film production teams; providing Economic Development Office discretion to determine if project negatively portrays West Virginia; providing and clarifying effective date; eliminating reference to business franchise tax; providing sunset provision; and making technical corrections.

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 Stover, and by unanimous consent, the remarks by Senator Karnes as to the passage of Engrossed Committee Substitute for House Bill 2096 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 4113, Public Health definitions and powers of secretary and commissioner.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4113 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 4113) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 4113) 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 4257, Require visitation immediately following a procedure in a health care facility.

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

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

Eng. House Bill 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4396) passed with its title.

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

Eng. House Bill 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4410) passed with its title.

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

Eng. Com. Sub. for House Bill 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 4451) passed with its title.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in regular order, with the amendment offered by Senator Karnes to the bill pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, was read a third time.

The question being on the adoption of the amendment offered by Senator Karnes to the bill (*shown in the Senate Journal of yesterday, Tuesday, March 8, 2022, pages 1819 to 1832, inclusive*).

At the request of Senator Karnes, and by unanimous consent, the amendment offered by Senator Karnes to the bill was withdrawn.

On motion of Senator Rucker, the following amendment to the bill (Eng. H. B. 4535) was reported by the Clerk:

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

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-3a. Graduated driver's license.

(a) A person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-5A-2 of this code. Any person under the age of ~~18~~17, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) *Eligibility.* — The division may not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code; and

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; and~~

~~(E)~~ (D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable: *Provided*, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6 of this code. The division shall immediately revoke the

permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

(C) All occupants use safety belts in accordance with §17C-15-49 of this code;

(D) The permit holder is operating the vehicle without any measurable blood alcohol content, in accordance with §17C-5-2(h) of this code; and

(E) The permit holder maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code.: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(d) *Level two intermediate driver's license.* — An applicant 16 years of age or older, meeting all other requirements of this code, may be issued a level two intermediate driver's license.

(1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the State Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code~~

~~(E)~~ (D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of a level two intermediate driver's license.* — A level two intermediate driver's license issued under the provisions of this section expires 30 days after the applicant

attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. A holder of a level two intermediate driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10 p.m.;

(B) The licensee operates a vehicle only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in accordance with §17C-5-2(h) of this code;

(F) The licensee maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under ~~§17B-2-3a(d)(2)(H)~~ §17B-2-3a(d)(2)(G) of this code; and

(H) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6 and §17B-2-7 of this code.

(e) *Level three, full Class E license.* — The level three license is valid until 30 days after the date the licensee attains his or her

21st birthday. A holder of a level three driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years; ~~and~~

~~(A) (2) Presents a completed application as prescribed by §17B-2-6 of this code;~~

~~(B) (3) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;~~

~~(C) (4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of this code; and~~

~~(D) (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.~~

~~(E) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; or~~

(2) Reaches the age of 18 years; and

(A) Presents a completed application as prescribed by §17B-2-6 of this code; and

~~(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code~~

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.

ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.

§17B-3-6. Authority of division to suspend, restrict, or revoke license; hearing.

(a) The division is hereby authorized to suspend, restrict, or revoke the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;

(2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

(3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) Is an habitually reckless or negligent driver of a motor vehicle;

(5) Is incompetent to drive a motor vehicle;

(6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

(7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures, or penalties imposed by a magistrate court or municipal court within 90 days, as required by ~~section two-a, article three, chapter fifty~~ §50-3-2a of this code or ~~section two-a, article ten, chapter eight~~ §8-10-2a of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;

(9) Is under the age of ~~eighteen~~ 17 and has withdrawn either voluntarily or involuntarily due to misconduct from a secondary school or has failed to maintain satisfactory academic progress, as provided in ~~section eleven, article eight, chapter eighteen~~ §18-8-11 of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in ~~article five-a, chapter forty-eight-a~~ §48A-5A-1 et seq. of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures, or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section and the division has received a court order restoring the license or a certification by the Child Support Enforcement Division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending, or restricting the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his or her request shall afford him or her an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension, or restriction or, good cause appearing therefor, may extend the suspension, or restriction of such license or revoke such license. The provisions of this subsection providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section. Any person whose driver's license is suspended, restricted, or revoked after hearing with the commissioner may seek judicial review of the final order or decision in accordance with §29A-5-4 of this code.

(e) Notwithstanding the provisions of legislative rule 91 CSR 5, the division may, upon completion of an approved defensive driving course, deduct three points from a licensee's point accumulation provided the licensee has not reached 14 points. If a licensee has been notified of a pending 30-day driver's license suspension based on the accumulation of 12 or 13 points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension: *Provided*, That the licensee submits proof of prior completion of the course and payment of the reinstatement fee in accordance with section nine, article three of this chapter to the division prior to the effective date of the suspension.

CHAPTER 18. EDUCATION.

ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.

§18-8-11. School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

~~(a) In accordance with the provisions of §17B-2-3a and §17B-2-5 of this code, the Division of Motor Vehicles shall deny a license or instruction permit for the operation of a motor vehicle to any person under the age of 18 who does not at the time of application present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state or documentation that the person: (1) Is enrolled and making satisfactory progress in a course leading to a general education development certificate (GED) from a state approved institution or organization or has obtained the certificate; (2) is enrolled and is making satisfactory academic progress in a secondary school of this state or any other state; (3) is excused from the requirement due to circumstances beyond his or her control; or (4) is enrolled in an institution of higher education as a full-time student in this state or any other state.~~

~~(b) The attendance director or chief administrator shall, upon request, provide a driver's eligibility certificate on a form approved by the Department of Education to any student at least 15 but less~~

~~than 18 years of age who is properly enrolled and is making satisfactory academic progress in a school under the jurisdiction of the official for presentation to the Division of Motor Vehicles on application for or reinstatement of an instruction permit or license to operate a motor vehicle: *Provided*, That a parent or legal guardian of a child who is being educated pursuant to §18-8-1(c) of this code may provide a signed statement in lieu of a driver's eligibility certificate issued by the attendance director or chief administrator affirming that the child is being educated in accordance with law, is making satisfactory academic progress, and meets the conditions to be eligible to obtain any permit or license under this section. The Division of Motor Vehicles may accept from a county board of education electronic notice of a student's compliance with the provisions of this section in lieu of any written form or written statement otherwise required from an applicant for an instruction permit or driver's license.~~

(e) (a) Whenever a student at least 15 but less than ~~18~~ 17 years of age, except as provided in subsection ~~(g)~~ (e) of this section, withdraws from school, the attendance director or chief administrator shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license to operate a motor vehicle will be ~~suspended~~ restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance or circumstances beyond the control of the student. If ~~suspended~~ restricted, the division may not reinstate an instruction permit or license until the student returns to school and shows satisfactory academic progress or until the student attains ~~18~~ 17 years of age.

~~(d)~~ (b) Whenever a student at least 15 but less than ~~18~~ 17 years of age is enrolled in a secondary school and fails to maintain satisfactory academic progress, the attendance director or chief administrator shall follow the procedures set out in subsection ~~(e)~~ (a) of this section to notify the Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license will be ~~suspended~~ restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. Once ~~suspension~~ the restriction is ordered, the division may not reinstate an instruction permit or license until the student shows satisfactory academic progress or until the student attains ~~18~~ 17 years of age.

~~(e)~~ (c) Upon written request of a student, within 10 days of receipt of a notice of ~~suspension~~ restriction as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

~~(f)~~ (d) For the purposes of this section:

(1) "Withdrawal" is defined as more than 10 consecutive or 15 total days unexcused absences during a school year, or suspension pursuant to §18A-5-1a(a) and §18A-5-1a(b) of this code.

(2) "Satisfactory academic progress" means the attaining and maintaining of grades sufficient to allow for graduation and course work in an amount sufficient to allow graduation in five years or by age 19, whichever is earlier.

(3) "Circumstances outside the control of the student" shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another.

(4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the student.

~~(g)~~ (e) Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to or to obtain a GED or high school diploma, or the student's failure to make satisfactory academic progress is due to a circumstance or circumstances beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of Motor Vehicles to ~~suspend~~ restrict the student's motor vehicle operator's license and if the student is applying for a license, the attendance director or chief administrator shall provide the student with documentation to present to the Division of Motor Vehicles to excuse the student from the provisions of this section. The school district superintendent (or the appropriate school official of any private secondary school) with the assistance of the county attendance director and any other staff or school personnel shall be the sole judge of whether any of the grounds for ~~denial or suspension~~ restriction of a license as provided by this section are due to a circumstance or circumstances beyond the control of the student.

~~(h)~~ (f) The state board shall promulgate rules necessary for uniform implementation of this section among the counties and as may otherwise be necessary for the implementation of this section. The rule may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation.

Following discussion,

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

Engrossed House Bill 4535, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4535) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

Eng. House Bill 4535—A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-6 of said code; and to amend and reenact §18-8-11 of said code, all relating to motor vehicle licensing; modifying requirements for a graduated driver's license; granting Division of Motor Vehicles authority to restrict and revoke a driver's license for certain reasons; allowing any person whose driver's license is suspended, restricted, or revoked after hearing with the Commissioner of the Division of Motor Vehicles to seek judicial review; removing requirement to deny a license or instruction permit to any person under 18 who does not meet one of certain academic related requirements; removing provisions pertaining to the provision of a driver's eligibility certificate; and replacing suspension of license with requiring restriction of license to driving for work or medical purposes or educational or religious pursuits whenever a student at least 15 but less than 17 years of age

withdraws from school or fails to maintain satisfactory academic progress.

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 4567, Relating to business and occupation or privilege tax.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4567 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Beach, Brown, Caputo, Geffert, Lindsay, and Weld—6.

Absent: Roberts—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. 4567) passed.

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

Eng. Com. Sub. for House Bill 4567—A Bill to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating the limiting of the imposition of the municipal business and occupation or privilege tax on the business of selling automobiles; providing for a decreasing reduction in the tax on new automobiles that have never been registered in the name of an individual over a three year period; providing for complete

elimination of the tax on new automobiles that have never been registered in the name of an individual; and defining terms.

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

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 4257, Require visitation immediately following a procedure in a health care facility.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4257 pass?"

Senator Baldwin 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 pastor who does hospital visitation on a volunteer basis.

The Chair replied that any impact on Senator Baldwin 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 4257) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4257—A Bill to amend and reenact §16-39-3 and §16-39-8 of the Code of West Virginia, 1931, as amended, all relating to requiring visitation of a patient in a health care facility; defining terms; permitting visitation when the patient is stable following a surgical procedure; permitting visitation of a patient by a member of clergy; and establishing parameters for clergy visitation.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Roberts—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. 4257) takes effect from passage.

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

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the remarks by Senator Rucker as to the passage of Engrossed Committee Substitute for House Bill 4257 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 Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4001, Generally relating to broadband.

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,

Chandler Swope,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4001) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Economic Development pending.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. House Bill 4827, Relating to the promotion and development of public-use vertiports.

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,

Chandler Swope,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4827) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:30 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:40 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 694, Relating to oil and gas conservation.

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:

After the enacting clause by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

**CHAPTER 22C. ENVIRONMENTAL RESOURCES;
BOARDS, AUTHORITIES, COMMISSIONS AND
COMPACTS.**

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-1. Declaration of public policy; legislative findings.

(a) It is hereby declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage, and promote exploration for and development, production, utilization, and conservation of oil and gas resources;

(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

(3) Encourage the maximum recovery of oil and gas; ~~and~~

(4) Safeguard, protect, and enforce the correlative rights of operators and royalty owners in a pool of oil or gas to the end that each such operator and royalty owner may obtain his or her just and equitable share of production from ~~such~~ that pool, unit or unconventional reservoir of oil or gas; and

(5) Safeguard, protect, and enforce the property rights and interests of surface owners and the owners and agricultural users of other interests in the land.

(b) The Legislature hereby determines and finds that oil and natural gas found in West Virginia in shallow sands or strata have been produced continuously for more than 100 years; that oil and gas deposits in ~~such~~ shallow sands or strata have geological and other characteristics different than those found in deeper formations and unconventional reservoirs; and that in order to encourage the maximum recovery of oil and gas from all productive formations in this state, it is not in the public interest,

with the exception of shallow wells utilized in a secondary recovery program, to enact statutory provisions relating to the exploration for or production ~~from~~ of oil and gas from vertical shallow wells, as ~~defined in section two of this article~~ but that it is in the public interest to enact statutory provisions establishing regulatory procedures and principles to be applied to the exploration for or production of oil and gas from deep wells, as defined in ~~said~~ section two and oil and gas produced from horizontal wells.

§22C-9-2. Definitions.

(a) ~~As used in this article:~~

~~(1) "Commission" means the Oil and Gas Conservation Commission and "commissioner" means the Oil and Gas Conservation Commissioner as provided for in section four of this article;~~

~~(2) "Director" means the Secretary of the Department of Environmental Protection and "chief" means the Chief of the Office of Oil and Gas;~~

~~(3) "Person" means any natural person, corporation, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;~~

~~(4) "Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for that person or for that person and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein is the "operator" to the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool is the "operator" as to that pool;~~

~~(5) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in subdivision (4) of this section;~~

~~(6) "Independent producer" means a producer of crude oil or natural gas whose allowance for depletion is determined under Section 613A of the federal Internal Revenue Code in effect on July 1, 1997;~~

~~(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;~~

~~(8) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (7) of this section;~~

~~(9) "Pool" means an underground accumulation of petroleum or gas in a single and separate reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural pressure system so that production of petroleum or gas from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;~~

~~(10) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;~~

~~(11) "Shallow well" means any well other than a coalbed methane well, drilled no deeper than one hundred feet below the top of the "Onondaga Group": *Provided*, That in no event may the "Onondaga Group" formation or any formation below the "Onondaga Group" be produced, perforated or stimulated in any manner;~~

~~(12) "Deep well" means any well, other than a shallow well or coalbed methane well, drilled to a formation below the top of the uppermost member of the "Onondaga Group;"~~

~~(13) "Drilling unit" means the acreage on which one well may be drilled;~~

~~(14) "Waste" means and includes:~~

~~(A) Physical waste, as that term is generally understood in the oil and gas industry;~~

~~(B) The locating, drilling, equipping, operating or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or~~

~~(C) The drilling of more deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool. Waste does not include gas vented or released from any mine areas as defined in section two, article one, chapter twenty two a of this code or from adjacent coal seams which are the subject of a current permit issued under article two of chapter twenty two a of this code: *Provided*, That this exclusion does not address ownership of the gas;~~

~~(15) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof; and~~

~~(16) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying the person's tract or tracts.~~

~~(b) Unless the context clearly indicates otherwise, the use of the word "and" and the word "or" are interchangeable, as, for example, "oil and gas" means oil or gas or both.~~

(a) As used in this article:

"Commission" means the Oil and Gas Conservation Commission and "commissioner" means the Oil and Gas Conservation Commissioner as provided for in §22C-9-4 of this code;

"Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his or her tract or tracts, or the equivalent thereof;

"Deep well" means any well, other than a shallow well, deep horizontal well, or a coalbed methane well, drilled to a formation below the top of the uppermost member of the "Onondaga Group";

"Director" means the Secretary of the Department of Environmental Protection and "chief" means the Chief of the Office of Oil and Gas;

"Drilling unit" or "unit" means the acreage on which one well or more wells may be drilled;

"Gas" means all natural gas and all other fluid hydrocarbons not defined as oil as that term is defined in this section;

"Horizontal drilling" means a method of drilling a well for the production of oil and gas that is intended to maximize the length of wellbore that is exposed to the formation and in which the wellbore is initially vertical but is eventually curved to become horizontal, or nearly horizontal, to be in a particular geologic formation;

"Horizontal well" means an oil and gas well, other than a coalbed methane well, where the wellbore is initially drilled using a horizontal drilling method. A horizontal well may include multiple horizontal side laterals drilled into the same formation. A horizontal well may have completions into multiple formations from the same well. Multiple horizontal wells may be drilled from the same well pad. A horizontal well may be either a shallow well or a deep well so long as it is initially drilled using a horizontal drilling method;

"Independent producer" means a producer of crude oil or natural gas whose allowance for depletion is determined under Section 613A of the federal Internal Revenue Code in effect on July 1, 1997;

"Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool, unit, or unconventional reservoir in the person's tract or tracts within a unit.

"Natural gas liquids" means the liquid hydrocarbons removed from the natural gas through the process of fractionation or condensation.

"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

"Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for that person or for that person and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, for all sections in this article other than section 7a, the owner of the oil and gas rights therein is the "operator" to the extent of seven eighths of the oil and gas in that portion of the pool underlying the tract owned by such the owner, and as "royalty owner" as to one-eighth interest in such the oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool or the unit ~~is the~~ is the "operator" as to that pool or acreage included in a unit; the term operator includes owners of working interests in a lease but does not include owners whose interest is limited to working interests in a wellbore only, overriding royalties, or net profits interests;

"Person" means any natural person, corporation, limited liability company, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any

kind, and includes any government or any political subdivision or any agency thereof;

"Pool" means an underground accumulation of petroleum or gas in a single and separate reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum or gas from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;

"Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as that term is defined in this section;

"Shallow well" means any well other than a shallow horizontal well or a coalbed methane well, drilled no deeper than 100 feet below the top of the "Onondaga Group": *Provided*, That in no event may the "Onondaga Group" formation or any formation below the "Onondaga Group" be produced, perforated or stimulated in any manner;

"Unconventional reservoir" means any geologic formation that contains or is otherwise productive of oil or natural gas that generally cannot be produced at economic flow rates or in economic volumes except by wells stimulated by multiple hydraulic fracture treatments, a horizontal wellbore, or by using multilateral wellbores or some other technique to expose more of the formation to the wellbore;

"Vertical well" means an oil and gas well that does not utilize horizontal drilling methods. A vertical well may be either a shallow well or a deep well so long as it is initially drilled not using a horizontal drilling method;

"Waste" means and includes:

(1) Physical waste, as that term is generally understood in the oil and gas industry;

(2) The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or

(3) The drilling of more horizontal wells or deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool, unit, or an unconventional reservoir. Waste does not include gas vented or released from any mine areas as defined in §22A-1-2 of this code or from adjacent coal seams which are the subject of a current permit issued under §22A-2-1 *et seq.* of this code: *Provided, That this exclusion does not address ownership of the gas;*

"Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(b) Unless the context clearly indicates otherwise, the use of the word "and" and the word "or" are interchangeable, as, for example, "oil and gas" means "oil or gas or both".

(c) A person with an interest in oil and gas in a unit formed under this article who does not consent to the unit shall have no liability in connection with well site preparation, drilling, completion, maintenance, reclamation, plugging, and other operations with respect to wells drilled in the unit: *Provided, That this subsection shall not apply to any operator in a horizontal well unit, including but not limited to any nonconsenting party who elects to participate in the horizontal well unit on a carried basis pursuant to §22C-9-7a of this code.*

§22C-9-3. Application of article; exclusions.

(a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all lands located in this state, however owned, including any lands owned or administered by any government or any agency or subdivision thereof, over which the

state has jurisdiction under its police power. The provisions of this article are in addition to and not in derogation of or substitution for the provisions of §22-6-1 *et seq.* of this code.

(b) This article shall not apply to or affect:

(1) Shallow wells other than shallow horizontal wells and those utilized in secondary recovery programs as set forth in in §22C-9-8 of this code and those provided for in §22C-9-4 of this code;

(2) Any well commenced or completed prior to March 9, 1972, unless ~~such~~ the well is, after completion (whether ~~such~~ the completion is prior or subsequent to that date):

(A) Deepened or drilled laterally subsequent to that date to a formation at or below the top of the uppermost member of the Onondaga Group; ~~or~~

(B) Involved in secondary recovery operations for oil under an order of the commission entered pursuant to §22C-9-8 of this code; or

(C) Drilled laterally as a horizontal well at any depth;

(3) Gas storage operations or any well employed to inject gas into or withdraw gas from a gas storage reservoir or any well employed for storage observation; ~~or~~

(4) Free gas rights; or

(5) Coalbed methane wells.

(c) The provisions of this article shall not be construed to grant to the commissioner or the commission authority or power to:

(1) Limit production or output, or prorate production of any oil or gas well, except as provided in §22C-9-7(a)(6) of this code; or

(2) Fix prices of oil or gas.

(d) Nothing contained in either this chapter or §22-1-1 *et seq.* of this code may be construed so as to require, prior to

commencement of plugging operations, a lessee under a lease covering a well to give or sell the well to any person owning an interest in the well, including, but not limited to, a respective lessor, or agent of the lessor, nor shall the lessee be required to grant to a person owning an interest in the well, including, but not limited to, a respective lessor, or agent of a lessor, an opportunity to qualify under §22-6-26 of this code to continue operation of the well.

§22C-9-4. Oil and gas conservation commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.

(a) The "oil and gas conservation commission" ~~shall be~~ is composed of ~~five~~ seven members. The director of the Department of Environmental Protection, and the Chief of the Office of Oil and Gas ~~shall be~~ are members of the commission ex officio. The remaining ~~three~~ five members of the commission shall be appointed by the Governor, by and with the advice and consent of the Senate, and may not be employees of the Department of Environmental Protection. Of the ~~three~~ five members appointed by the Governor, one shall be an independent producer and at least one shall be a public member not engaged in an activity under the jurisdiction of the Public Service Commission or the Federal Energy Regulatory Commission. ~~and at least one shall be a public member not engaged in an activity under the jurisdiction of the Public Service Commission or the federal energy regulatory commission~~ The third appointee shall possess a degree from an accredited college or university in engineering or geology and must be a registered professional engineer with particular knowledge and experience in the oil and gas industry and shall serve as commissioner and as chair of the commission. The fourth appointee shall be an individual who has substantial experience in the agricultural industry, who is engaged in the business of farming in this state, and who is not and never has been, either himself or herself nor through a member of his or her immediate family, engaged in the business of oil and gas other than as a royalty recipient. When this member is to be appointed, the Governor shall

request from the primary organization representing the agriculture industry in this state a list of three nominees for the member to be appointed. The fifth appointee shall be a resident owner of minerals in this state who is not and never has been affiliated with an operator of oil or gas wells. The term "affiliated", as used in the immediately preceding sentence, means someone who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with an operator of oil and gas wells by virtue of the power to direct or cause the direction of the management and policies of that operator, whether through the ownership of voting shares, by contract or otherwise.

(b) The members of the commission appointed by the Governor shall be appointed for overlapping terms of six years each, ~~except that the original appointments shall be for terms of two, four, and six years, respectively~~ except that any initial appointments shall be for terms of two, four, or six years to achieve staggered ends of terms. Each member appointed by the Governor shall serve until the members successor has been appointed and qualified. Members may be appointed by the Governor to serve any number of terms. The members of the commission appointed by the Governor, before performing any duty hereunder, shall take and subscribe to the oath required by section 5, article IV of the Constitution of West Virginia. Vacancies in the membership appointed by the Governor shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and ~~such~~ the appointment shall be made by the Governor within 60 days of the occurrence of such vacancy. Any member appointed by the Governor may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance in office. A commission member's appointment ~~shall be~~ is terminated as a matter of law if that member fails to attend three consecutive meetings. The Governor shall appoint a replacement within 30 days of the termination.

(c) The commission shall meet at such times and places as ~~shall be~~ are designated by the chair. The chair may call a meeting of the commission at any time, and shall call a meeting of the commission upon the written request of two members or upon the written

request of the oil and gas conservation commissioner or the Chief of the Office of Oil and Gas. Notification of each meeting shall be given in writing to each member by the chair at least 14 calendar days in advance of the meeting. ~~Three~~ Four members of the commission, at least two of whom are appointed members, ~~shall~~ constitute a quorum for the transaction of any business.

(d) The commission shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties.

(e) The commission is hereby empowered and it is the commission's duty to execute and carry out, administer and enforce the provisions of this article in the manner provided herein. Subject to the provisions of §22C-9-3 of this code, the commission has jurisdiction and authority over all persons and property necessary therefor. The commission is authorized to make such investigation of records and facilities as the commission ~~deems~~ considers proper. In the event of a conflict between the duty to prevent waste and the duty to protect correlative rights, the commission's duty to prevent waste ~~shall be~~ is paramount.

(f) Without limiting the commission's general authority, the commission ~~shall have~~ has specific authority to:

(1) Regulate the spacing of deep wells;

(2) Issue horizontal well unit orders;

~~(2)~~(3) Make and enforce reasonable rules and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission and otherwise administer the provisions of this article;

~~(3)~~(4) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, and other pertinent documents, and

administer oaths and affirmations to ~~such~~ the witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of the commission's duties under the provisions of this article; and

(4)(5) Serve as technical advisor regarding oil and gas to the Legislature, its members and committees, to the Chief of Office of Oil and Gas, to the Department of Environmental Protection and to any other agency of state government having responsibility related to the oil and gas industry.

(g) The commission may delegate to the commission staff the authority to approve or deny an application for new well permits, to establish drilling units or special field rules if:

(1) The application conforms to the rules of the commission; and

(2) No request for hearing has been received.

(h) The commission may not delegate its authority to:

(1) Propose legislative rules;

(2) Approve or deny an application for new well permits, to establish drilling units or special field rules if the conditions set forth in subsection (g) of this section are not met; or

(3) Approve or deny an application for the pooling of interests within a drilling unit.

(i) Any exception to the field rules or the spacing of wells which does not conform to the rules of the commission, and any application for the pooling of interests within a drilling unit, must be presented to and heard before the commission.

(j) The commission is hereby empowered and it is the commission's duty to execute and carry out, administer, and enforce the relevant provisions of §37B-1-1 *et seq.* of this code concerning mineral development by cotenants for all wells at all depths and §22-11B-1 *et seq.* of this code concerning underground

carbon dioxide sequestration storage facilities at all depths. The commission has jurisdiction and authority over all persons and property necessary therefor. The commission is authorized to make such investigation of records and facilities as the commission deems proper.

§22C-9-5. Rules; notice requirements.

(a) The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement and make effective the provisions of this article and the powers and authority conferred and the duties imposed upon the commission under the provisions of this article.

(b) Notwithstanding the provisions of §29A-7-2 of this code, any notice required under the provisions of this article shall be given at the direction of the commission by personal or substituted service or by certified United States mail, addressed, postage prepaid, to the last-known mailing address, if any, of the person being served, with the direction that the same be delivered to addressee only, return receipt requested. In the case of providing notice upon the filing of an application with the commission, the commission ~~shall cause~~ shall, within 14 days of the filing of an application, submit for publication notice of the application notice to be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for ~~such~~ the publication shall be the county or counties wherein any land which may be affected by ~~such~~ the order is situate.

In addition, the commission shall mail a copy of ~~such~~ the notice to all other persons who have specified to the commission an address to which all such notices may be mailed. The notice shall issue in the name of the state, shall be signed by the one of the commission members, shall specify the style and number of the proceeding, the time and place of any hearing and shall briefly state the purpose of the proceeding. Each notice of a hearing must be provided no fewer than 20 days preceding the hearing date. Personal or substituted service and proof thereof may be made by an officer authorized to serve process or by an agent of the

commission in the same manner as is now provided by the "~~West Virginia Rules of Civil Procedure for Trial Courts of Record~~" West Virginia Rules of Civil Procedure for service of process in civil actions in the various courts of this state.

A certified copy of any pooling or unit order entered under the provisions of this article shall be presented by the commission to the clerk of the county commission of each county wherein all or any portion of the pooled or unit tract is located, for recordation in the record book of ~~such~~ the county in which oil and gas leases are normally recorded. The recording of the order from the time noted thereon by ~~such~~ the clerk shall be notice of the order to all persons.

§22C-9-7a. Unitization of interests in horizontal well drilling units.

(a) Declaration of public policy; legislative findings regarding unitization for all horizontal wells.

The Legislature finds that horizontal drilling is a technique that effectively and efficiently recovers natural resources and should be encouraged as a means of production of oil and gas and it is hereby declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage, and promote exploration for and development, production, utilization, and conservation of oil and gas resources by horizontal drilling in deep and shallow formations;

(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

(3) Encourage the maximum recovery of oil and gas; and

(4) Safeguard, protect, and enforce the correlative rights of operators and royalty owners of oil and gas in a horizontal well unit to the end that each such operator and royalty owner may obtain his or her just and equitable share of production from that pool, horizontal well unit or unconventional reservoir of oil or gas; and

(5) Safeguard, protect, and enforce the property rights and interests of surface owners and the owners and agricultural users of other interests in the land.

(b) Definitions.— Unless the context in which used clearly requires a different meaning, as used in this section:

"Bonded operator" means a person that has posted a bond under §22-6-1 et seq. or §22-6A-1 et seq. of this code; is registered as an oil and gas well operator with the West Virginia Department of Environmental Protection, Office of Oil and Gas; and operates eight or more oil and gas wells, as defined in §22-6-1 et seq. or §22-6A-1 et seq. of this code, in West Virginia that are active, producing oil and gas wells;

"Executive interest" and "executory interest" means the interest entitling the owner to lease the oil and gas estate or amend an existing oil and gas lease. For purposes of this section, the owner of the executive interest is considered to be the royalty owner and interested party for purposes of notice and participation in proceedings here in this article, and all horizontal well unit orders are binding on the owners of executive interests and nonexecutive interests in a horizontal well unit. The owners of the executive interest and the associated nonexecutive interest owners are considered to be the same interest for purposes of computing percentages pursuant to §22C-9-7a(c)(2)(A) and §22C-9-7a(c)(2)(B) of this code;

"Horizontal well unit" means an area in which horizontal drilling may occur, and that is designated for the allocation of production from one or more horizontal wells drilled in the unit to oil and gas tracts, or portions of the tracts, included in the unit for production of oil and gas and payment of royalty and proceeds of production regardless of the tract or tracts in which the horizontal well is drilled or completed, and the corresponding authorization to drill and produce oil and gas from that area as a unit, notwithstanding the lack of adequate consensual rights allowing pooling or unitization of oil and gas or allowing drilling horizontally across tract lines. When a horizontal well unit is formed, that portion of the production allocated to each tract or

portion of the unit included in the horizontal well unit shall, when produced, be considered for all purposes to have been actually produced from the tract by an oil and gas well drilled, completed and producing on the tract;

"Lateral" means the portion of a well bore that deviates from approximate vertical orientation to approximate horizontal orientation and all wellbore beyond the initial deviation to total depth or terminus of the wellbore;

"Overriding royalty" means an interest carved out of the leasehold or out of the working interest and is not included within the meaning of royalty;

"Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in §22C-9-2(a) of this code. A royalty owner does not include a person whose interest is limited to: (A) A working interest in a wellbore only; (B) overriding royalties; (C) nonparticipating royalty interests; (D) nonexecutive mineral interests; or (E) net profits interests;

"Target formation" means the primary geologic formation from which oil or gas is intended to be produced from a horizontal drilling operation and, where completions can reasonably be expected to produce from formations above or below the target formation, includes the formations from which production can reasonably be expected;

"Unitization" means the combination of two or more tracts of oil and gas, or portions thereof, or leases, for drilling of horizontal wells and production of oil and gas from the unit with allocation of production to the net acreage of each tract included in the unit to operate as a consolidated horizontal well unit;

"Unitization consideration" means consideration provided as set forth in subsection (f) of this section. Unitization consideration relates to the net acreage of the nonconsenting royalty owner included in a horizontal well unit;

"Unknown and unlocatable interest owner" means a royalty owner, executive interest owner, operator or other person vested with an interest in oil and gas in the target formation to be included in a horizontal well unit, whose present identity or location cannot be determined from:

(A) A reasonable review of the records of the clerk of the county commission for the county or counties where the oil and gas is located and any immediately adjacent counties within this state;

(B) Diligent inquiry to known interest owners in the same tract;

(C) Inquiry to the sheriff's and assessor's offices of the county or counties in which the oil and gas interest is located;

(D) A reasonable inquiry utilizing available internet resources that could reasonably lead to the identification of the person; and

(E) A mailing to the last known address, if available, of the person as reflected in the records of the sheriff's or assessor's office, and includes the unknown heirs, representatives, successors and assigns of the person.

"Weighted average sales price" means a weighted average sales price obtained each month for amounts received at the applicant's various delivery points to unaffiliated, third-party purchasers accessible by the owner's production, without deduction of post-production, third-party costs and expenses charged to or incurred by applicant and/or its affiliates other than costs and expenses charged to or incurred by applicant and/or its affiliates after the first liquid trading point or, if the production does not undergo processing, after delivery to the first interstate pipeline.

(c) Applicability. —

(1) For all horizontal wells, including shallow horizontal wells and deep horizontal wells, the commission may unitize tracts, or portions of tracts, in a horizontal well unit established under this section upon the filing of an application with the commission by a person that controls the horizontal well unit and upon the issuance of a horizontal well unit order pursuant to this section.

(2) Before filing an application under this section, an applicant must have:

(A) With respect to the royalty interest, for shallow horizontal wells and deep horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, compliance with §37B-1-1, et seq. of this code with respect to unknown or unlocatable interest owners defined in §37B-1-3 of this code only, contract or other agreement the right, consent or agreement to pool or unitize the acreage to be included in the horizontal well unit from executory interest royalty owners of 75 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit, as provided and determined in subdivision (3) of this subsection; and

(B) With respect to the operator interest:

(i) For shallow horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, contract, or other agreement, the right, consent or agreement to pool or unitize as to 55 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit owned, leased, or operated by operators and the applicant, collectively, by ownership, lease, farmout, assignment, contract or other agreement, as provided and determined in subdivision (3) of this subsection; or

(ii) For deep horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, compliance with §37B-1-1, et seq. of this code with respect to unknown or unlocatable interest owners defined in §37B-1-3 of this code only, contract or other agreement the right, consent or agreement to develop the acreage to be included in the horizontal well unit from executory interest royalty owners of 55 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit, as provided and determined in subdivision (3) of this subsection;

(C) (i) Made good faith offers to consent or agree to pool or unitize, and has negotiated in good faith with, all known and

locatable royalty owners having executory interests in the oil and gas in the target formation within the acreage to be included in the proposed horizontal well unit who have not previously consented or agreed to the pooling or unitization of the interests and whose interests are not subject to development under §37B-1-1, et seq. of this code; and

(ii) Made good faith offers to participate or consent or agree to the proposed horizontal well unit, and has negotiated in good faith with, all known and locatable operators who have not previously agreed to participate or consent or agree to pool or unitize the acreage to be included in a proposed horizontal well unit.

(iii) A person who satisfies the conditions of paragraphs (A) through (C) of this subdivision is referred to in this section as a person that controls the horizontal well unit.

(3) For purposes of determining whether a person has obtained the requisite control of the proposed horizontal well unit, the commission may not include overriding royalty owners, nonexecutive interest royalty owners or acreage owned or otherwise held by unleased unknown and unlocatable interest owners whose acreage is not subject to development pursuant to §37B-1-1, et seq. of this code, or acreage owned or otherwise held by operators who are not bonded operators, unless such operators have consented or otherwise agreed to develop their operator interest in the net acreage in the target formation proposed to be included in the horizontal well unit. Furthermore, for purposes of determining whether a person has the requisite control of the proposed horizontal well unit, the identity and rights of royalty owners and operators shall be determined as of the date on which the application for a horizontal well unit is filed.

(4) If the applicant has not met all the provisions of this subsection, the application shall be dismissed without prejudice.

(5) If the applicant meets all of the provisions of this subsection, the commission shall authorize unitization of tracts, or portions of the tracts, as to all interests in oil and gas in the target formation acreage proposed to be unitized for horizontal drilling.

including interests of unknown and unlocatable interest owners, for production of oil and gas from the target formation as a horizontal well unit, and shall issue a horizontal well unit order in accordance with this section.

(d) Application requirements. —

(1) An applicant who is a person that controls the horizontal well unit proposed for a horizontal well unit order and has drilled or plans to drill one or more horizontal wells in the proposed horizontal well unit may file an application with the commission for a horizontal well unit order. The application shall contain:

(A) A description of the proposed horizontal well unit and identification of the target formation or formations;

(B) A statement of the nature of the operations contemplated;

(C) A plat that depicts the boundaries and acreage of the proposed horizontal well unit, the tracts in the horizontal well unit, the surface tax map and parcel numbers of the surface tracts above the tracts to be included in the horizontal well unit in accordance with county assessor's records, and the district(s) and county or counties where the proposed horizontal well unit is located. The plat shall show the surface location of the vertical borehole of the horizontal well(s) to be included in the proposed horizontal well unit determined by survey, the courses and distances of the surface location from two permanent points or landmarks on those tracts, the deviation from vertical, and also the proposed horizontal lateral portion of each proposed horizontal well to be included in the proposed horizontal well unit. The plat shall show the proposed horizontal well unit name, the proposed horizontal well names, and if known, the well number of each horizontal well to be drilled in the horizontal well unit. The plat shall also show the location of each permitted, active oil and gas well located in the horizontal well unit, and the name of the operator of the well as shown by the records of the Department of Environmental Protection, Office of Oil and Gas: *Provided*, That the applicant is not required to depict or identify any abandoned or plugged well that is not required to

be depicted or identified on the plat required by §22-6A-5(a)(6) of this code;

(D) A listing of all oil and gas tracts, or portions thereof, within the proposed horizontal well unit, the size of each tract, and the extent to which each tract is leased;

(E) The names and last known addresses of royalty owners of the target formation of each tract within the proposed horizontal well unit, specifying:

(i) Which, if any, of them are unknown and unlocatable;

(ii) Which of them hold executive rights; and

(iii) With respect to owners of an executory interest, whether they have consented to pooling or unitization of the acreage proposed to be included in the horizontal well unit;

(F) The names and last known addresses of operators of proposed horizontal well unit target formation acreage whose interest is of record in the county where the property is located, specifying:

(i) Which, if any, of them are unknown and unlocatable; and

(ii) Which, if any of them, are bonded operators, and if a bonded operator, whether he or she has consented to pooling or unitization as to the acreage proposed to be included in the horizontal well unit;

(G) Information regarding the applicant's actions to identify and locate unknown and unlocatable interest owners of target formation acreage to be included in the horizontal well unit;

(H) The percentage of the net acreage in the proposed horizontal well unit owned by executory interest target formation royalty owners who have consented to pooling or unitization;

(I) The percentage of the net acreage in the proposed horizontal well unit held by bonded operators and the applicant, collectively,

as to which consent or agreement to pool or unitize has been granted;

(J) A percentage allocation to the separately owned tracts, or portions thereof, in the proposed horizontal well unit of the oil and gas that will be produced from the horizontal well unit as determined by the proportion that each tract's net acreage within the horizontal well unit bears to the total net acreage in the horizontal well unit;

(K) A certification that the applicant meets the requirements of subsection (c) of this section with respect to the proposed horizontal well unit, a list of the instruments granting the control and a certification that the applicant has mailed a copy of the application to all known and locatable interested parties by United States certified mail, return receipt requested, to their last known address and to the most current address filed with the West Virginia Department of Environmental Protection, Office of Oil and Gas, if any;

(L) A statement whether the applicant has submitted, either previously or contemporaneously with the application filed pursuant to this section, an application for a well work permit with the Department of Environmental Protection for one or more horizontal wells to be completed within the boundaries of the proposed horizontal well unit; and

(M) A proposed joint operating agreement that will govern the contractual relationship between the applicant and any unleased royalty owners following an election by the executive interest owners to participate in the drilling in the horizontal well unit on a carried basis under §22C-9-7a(f)(9) of this code.

(2) Upon the filing of an application for a horizontal well unit order, the commission shall provide notice of a hearing to all interested parties, as defined in this section, in accordance with §22C-9-5 of this code and subsection (g) of this section.

(e) Standard of review. —

(1) The commission shall evaluate the application and shall consider:

(A) The ownership and control of the tracts, or portions of the tracts, in the proposed horizontal well unit;

(B) Whether the tracts, or portions of the tracts, proposed to be made subject to a horizontal well unit order are owned, in whole or in part, by unknown and unlocatable interest owners;

(C) Information regarding the applicant's actions to locate unknown and unlocatable interest owners for the tracts, or portions of the tracts, sought to be included in the horizontal well unit;

(D) The percentage of executory interest royalty owner target formation acreage to be included in the horizontal well unit as to which consent or agreement for pooling or unitization has been granted;

(E) The percentage of proposed horizontal well unit target formation acreage held, collectively, by the applicant and bonded operators who have consented or agreed to the unit in accordance with subsection (c) of this section;

(F) Whether the applicant is a person that controls the horizontal well unit proposed for unitization;

(G) The area to be drained by well(s) completed or to be completed in the horizontal well unit;

(H) Correlative rights;

(I) The extent to which the application will prevent waste including the stranding of acreage of oil and gas formations between units that would be uneconomical to produce;

(J) Whether the applicant has complied with subsection (c) of this section;

(K) Whether notice has been provided in accordance with this section; and

(L) Whether the applicant demonstrates the intent and ability to drill all the wells proposed in the unit.

(2) The commission may not issue a horizontal well unit order pursuant to this section unless it finds that the applicant has before the filing of the application met the requirements of subsection (c) of this section.

(3) The commission may not change the operator of an existing well drilled in the proposed horizontal well unit, or a well actually being drilled within the proposed horizontal well unit as of the date the application is filed under this section and shall consider and protect the interests of owners of the well when issuing a horizontal well unit order.

(f) *Horizontal well unit orders.* —

(1) A horizontal well unit order under this section shall specify:

(A) The size and boundaries of the horizontal well unit giving due regard for maximization of the amount of oil and gas produced to prevent waste and protect correlative rights: *Provided*, That a horizontal well unit's size may not exceed 640 acres: *Provided, however*, That the commission may exceed the acreage limitation if the applicant demonstrates that the proposed horizontal well unit area would be drained efficiently and economically by a larger horizontal well unit: *Provided further*, That a horizontal well unit containing one or more horizontal wells may not contain more than 128 net acres controlled by nonconsenting royalty owners determined as of the date that the application for the horizontal well unit application is filed.

(B) The horizontal wells which may be drilled in the horizontal well unit, and whether the horizontal wells to be drilled are shallow or deep;

(C) If there are vertical wells completed in the target formation in the horizontal well unit, the area where a horizontal well may not be completed;

(D) The target formation or target formations to which the horizontal well unit applies; and

(E) Any unitization consideration due.

(2) An order authorizing unitization of tracts with unknown and unlocatable interest owners shall contain a finding that identifies the persons as unknown and unlocatable.

(3) An order shall specify that the allocation of the percentage of production of the horizontal wells drilled in the horizontal well unit to the separately owned tracts, or portions of the tracts, included within the horizontal well unit shall be in the proportion that each tract's net acreage within the horizontal well unit bears to the total net acreage within the horizontal well unit.

(4) A horizontal well unit order shall authorize and perfect unitization of all interests in the target formation as to the tracts, or portions of the tracts, included in the horizontal well unit.

(5) If the applicant is a person that controls the horizontal well unit proposed for a horizontal well unit order under this section, the commission shall form a horizontal well unit pursuant to this section and authorize the drilling and operation of one or more horizontal wells in the unit for the production of oil or gas from the target formation from any tract within the horizontal well unit.

(6) With respect to royalty owners of leased tracts who have not consented to pooling or unitization, the commission shall require that unitization consideration be paid to executive interest royalty owners in an amount equal to 25 percent of the weighted average monetary bonus amount on a net mineral acre basis and a production royalty percentage equal to 80 percent of the weighted average production royalty percentage rounded to the nearest one tenth of one percent paid to other executive interest owners of leased tracts in the unit in the same target formation: *Provided*, That the weighted average calculation shall not include any fixed amounts paid to royalty owners or payments made on any basis other than a net mineral acre basis. Further, the royalty percentage cannot be less than the production royalty percentage in the

existing lease or twelve and one-half percent for a flat rate lease. The applicant, all royalty owners, and owners of leasehold, working interest, overriding royalty interest and other interests in the oil and gas are bound by the order and the remaining lease terms, including other terms related to the payment of royalties. Unitization consideration shall be paid by the participating operators, including the applicant, to the extent of their interest in the horizontal well unit.

(7) With respect to interests in oil and gas as to which there is no lease in existence:

(A) Executive interest owners may elect to surrender the oil and gas underlying the tract to the participating operators, including the applicant, to the extent of their interest in the horizontal well unit for consideration, which if not agreed upon, shall be an amount equal to the weighted average amount paid, per net mineral acre, by the applicant to executive interest owners in bona fide, third-party transactions for the acquisition of the oil and gas mineral estate in the same target formation underlying the horizontal well unit: *Provided*, That the weighted average calculation shall not include any fixed amounts paid to royalty owners or payments made on any basis other than a net mineral acre basis; or

(B) Executive interest owners may make an election for unitization consideration, and if the executive interest owner elects unitization consideration, the interests of the executive interest owner and the associated nonexecutive interest owners shall be considered leased to the participating operators, including the applicant, to the extent of their interest in the horizontal well unit on terms which, if not agreed upon, shall consist of the following:

(i) A bonus payment per net mineral acre equal to the weighted average monetary bonus paid, per net mineral acre, to executive interest owners by the applicant in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit: *Provided*, That the weighted average calculation shall not include any fixed amounts paid as bonus

payments to executive interest owners or payments made on any basis other than a net mineral acre basis; and

(ii) A production royalty for the natural gas, oil and natural gas liquids produced and sold equal to the highest production royalty percentage in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit and dated within the twenty four months preceding the application date. Executive interest owners may make a one-time election prior to the issuance of a horizontal well unit order by the commission to be paid production royalties for natural gas based on either: (a) An index price in effect at the beginning of each calendar month, as published in an independent, third-party publication reflecting arm's-length, market-based sales, for natural gas applicable to the first interstate pipeline into which the natural gas is delivered, and shall not be reduced by post-production expenses; or (b) the weighted average sales price.

Production royalties for natural gas liquids will be calculated using the sum of the proceeds received at the tailgate of the processing facility for each natural gas liquid product during each month divided by the volume of such natural gas liquid product that was sold during such month and shall not be reduced by post-production expenses. If an executive interest owner does not make the one-time election regarding the price on which royalties for natural gas shall be paid prior to the issuance of a horizontal well unit order by the commission, the applicant shall determine whether it will pay royalties to the executive interest owner and the associated nonexecutive interest owners based on either the index price described in this subparagraph or the weighted average sales price, and such determination shall be binding on the applicant, operators, executive interest owners and the associated nonexecutive interest owners for the term of the lease. The applicant and all royalty owners and owners of leasehold, working interest, overriding royalty interest and other interests in the associated unleased oil and gas shall be bound by the order. Nothing contained in paragraph (B) applies to any lease in this state now in existence or entered into in the future, or to any award of unitization consideration made by the commission other than

unitization consideration awarded to an executive interest owner of an unleased tract who elects to be considered leased pursuant to this paragraph; or

(C) Executive interest owners may make an election to participate in a horizontal well unit consistent with §22C-9-7a(f)(9) and §22C-9-7a(f)(10) of this code.

(D) Owners of oil and gas interests as to which there is no lease in existence who do not elect (A), (B) or (C) of this subdivision shall be considered to have made an election to receive unitization consideration and lease their interest in the oil and gas mineral estate in the target formation to the applicant pursuant to §22C-9-7a(f)(7)(B) of this code.

(8) No unitization consideration may be required to be paid to any royalty owner who has consented or agreed to pooling or unitization by virtue of the terms contained in an oil and gas lease, or other agreement which permits pooling or unitization.

(9) An operator may elect to consent to and participate in a horizontal well unit after an application is filed. Subject to subdivision (7) of this subsection, when the commission issues a horizontal well unit order pursuant to this section, the commission shall consider each nonconsenting operator, who does not elect to participate in the risk and cost of drilling in the horizontal well unit through a voluntary agreement with the applicant, to participate in the drilling in the horizontal well unit on a carried basis on terms and conditions which, if not agreed upon, shall be consistent with the terms and conditions contained in the proposed joint operating agreement submitted by the applicant in accordance with §22C-9-7a(d)(1)(M) of this code: *Provided*, That the commission determines that the proposed terms and conditions of the joint operating agreement are consistent with terms typically found in other similarly situated, arm's-length joint operating agreements within the horizontal well unit that were entered into by the applicant for the same target formation prior to the filing of the application for the horizontal well unit.

(10) If a nonconsenting operator participates in the drilling in the horizontal well unit on a carried basis under the horizontal well unit order and an owner of any operating interest in any portion of the horizontal well unit drills and operates, or pays the costs of drilling, completing, equipping and operating a horizontal well for the benefit of a nonconsenting operator as provided in the horizontal well unit order, then the operating owner is entitled to the share of production from the tracts or portions thereof subject to the horizontal well unit order accruing to the interest of the nonconsenting operator, exclusive of any unitization consideration, and royalty and overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions of the tracts, until the net revenue from the nonconsenting operator's share of the production, exclusive of the unitization consideration, royalty and overriding royalty, equals double the share of the costs payable by or charged to the interest of the nonconsenting operator, as set forth in the accounting procedures included within the joint operating agreement submitted by the applicant in accordance with §22C-9-7a(d)(1)(M) of this code.

(11) If all wells proposed in a horizontal well unit approved by the commission are not drilled and completed as approved in the horizontal well unit order, the applicant shall file a request to modify the horizontal well unit with the commission within 60 days from the later of: Completion of all drilling activities within the horizontal well unit; or the date that is five years after the most recent drilling activity in the horizontal well unit occurs.

(12) Any interested party may file an application to correct a clerical error in a horizontal well unit order at any time.

(13) The applicant may file a request to modify a horizontal well unit order at any time.

(14) If an operator has not drilled and completed a well in a horizontal well unit formed by the commission within three years after the latter of either the drilling and completion of the initial horizontal well in the horizontal well unit or the drilling and completion of the most recent horizontal well within the horizontal well unit, as the case may be, an interested party may file a request

to modify the horizontal well unit, and the commission may modify the horizontal well unit. Upon the modification of the horizontal well unit, the commission shall recalculate the allocation of production from the tracts in the modified horizontal well unit from and after the modification order date and the modification order shall be binding on the property subject to the horizontal well unit order, and all owners thereof, their heirs, representatives, successors and assigns for so long as the horizontal well unit order remains in effect. Following the entry of a modified horizontal well unit order containing the commission's recalculation of the allocation of production from the tracts in the modified horizontal well unit order, the applicant and all other operators shall have no liability whatsoever to pay royalty in any manner other than that set forth in the modified horizontal well unit order.

(15) All operations, including, but not limited to, the commencement, drilling, or operation of a horizontal well upon any portion of a horizontal well unit for which a unit order has been entered pursuant to this section, shall be considered for all purposes the conduct of the operations upon each separate tract or portion of the tract in the horizontal well unit. That portion of the production allocated to each tract or portion of the tract included in a horizontal well unit shall, when produced, be considered for all purposes to have been actually produced from the tract by an oil and gas well drilled, completed, and producing on the tract.

(16) Subject to the provisions of subsection (o) of this section, where the commission finds that the interest of one or more unknown and unlocatable interest owners are included in the horizontal well unit, the horizontal well unit operator shall deposit the moneys payable to unknown and unlocatable interest owners into an escrow account bearing a market rate of interest to be held, administered and disbursed in accordance with an order of the commission and this section.

(17) A horizontal well unit order under this section shall expire if a horizontal well has not been drilled in the horizontal well unit within three years of the date the order is final and is nonappealable, unless the commission extends the order for good cause, and if a well has been drilled within three years the

horizontal well unit shall continue in force and effect until the last producing horizontal well in the horizontal well unit is no longer capable of producing oil and gas.

(18) So long as the order remains in effect, a horizontal well unit order shall be binding on the property subject to the horizontal well order and all owners of the property and their heirs, representatives, successors, and assigns.

(g) Notice, timelines, hearings, and orders. —

(1)(A) For purposes of this section and the West Virginia Administrative Procedures Act, "interested parties" and "parties" mean owners of the executive interest in the oil and gas in the target formation within the horizontal well unit, including the unknown and unlocatable interest owner of the executive interest in the tracts, or portions of the tracts, to be included in the horizontal well unit subject to an application for a horizontal well unit order; owners of unleased oil and gas to be included in the horizontal well unit; operators of all target formation acreage in the horizontal well unit; and operators of all oil and gas wells located in the unit that have been drilled to or through the target formation.

(B) Bonded operators of wells drilled to or through the target formation that are not within the horizontal well unit but are located within 500 feet of a proposed horizontal well unit boundary and executive interest owners owning an interest in the target formation that is not located within the horizontal well unit but is located within 500 feet of a proposed horizontal well unit boundary may submit written comments regarding the horizontal well unit application at any time before the start of any hearing regarding the application, but are not interested parties and may not participate in the hearing nor have the right to appeal the commission's decision regarding the application.

(2) Each notice issued in accordance with this section shall describe the area for which a horizontal well unit order is proposed in recognizable, narrative terms and contain such other information as is essential to the giving of proper notice, including the time and date and place of a hearing. As soon as practicable the commission

shall establish a website. Within three business days of the filing of an application under this section, the commission shall publish on its website a copy of: (i) The horizontal well unit application notice required to be published pursuant to this section and section five of this article; and (ii) the proposed horizontal well unit plat filed with the application, both identified as a horizontal well unit application and indexed by county and district where the majority of the acreage to be included in the proposed horizontal well unit is located, so that the plat and notice of the application are readily accessible. Timely publication on the website for a period of 10 business days shall be notice to all operators.

(3) Upon request of any interested party or the commission, the commission shall conduct a hearing and receive evidence regarding the application. All interested parties may participate in any hearing. If a hearing has been held regarding an application, the order shall be a final order. If no hearing has been requested by the commission or an interested party within 15 days after notice of the application is posted on the commission website in accordance with subdivision (2) of this subsection, the commission may issue a proposed order and provide a copy of the proposed order, together with notice of the right to appeal to the commission and request a hearing, to all interested parties. Any interested party aggrieved by the proposed order may appeal the proposed order to the commission and request a hearing. Notice of appeal and request for hearing shall be made within 15 days of entry of the proposed order. If no appeal and request for hearing have been received within 15 days, the proposed order shall become final. If a hearing is requested, the hearing shall commence within 45 days of issuance of the initial notice. The commission may, upon written request, extend the date for the hearing: *Provided*, That the hearing must be convened within 45 days of the initial notice issued by the commission. The commission shall, within 20 days of the hearing, enter an order authorizing the unit, dismiss the application, or for good cause continue the process.

(4) At least 10 days prior to a hearing to consider an application for a horizontal well unit order, the applicant shall file with an

independent, third-party attorney, or accountant selected by the chair of the commission a summary of:

(A) The prevailing economic terms of the leases within the proposed horizontal well unit relating to the target formation where the applicant is the operator, including the bonus payment per net mineral acre and production royalty rate, including whether the production royalty is subject to reduction for post-production expenses; and

(B) The prevailing amounts paid to the executive interest royalty owners, per net mineral acre, for the modification of leases relating to the target formation within the proposed unit where the applicant is the operator to allow the lessee to unitize the leased tract with other tracts for purposes of drilling horizontal wells.

(C) The independent, third-party selected by the chair of the commission shall review the economic information filed by the applicant to determine its accuracy and, upon completion of his or her review, shall submit a report to the commission specifying the following information for inclusion by the commission in the horizontal well unit order:

(i) The weighted average monetary bonus paid, per net mineral acre, to executive interest owners by the applicant in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit, as provided in §22C-9-7a(f)(6) and §22C-9-7a(f)(7)(B)(ii) of this code;

(ii) The weighted average production and highest royalty percentage, calculated on a net mineral acre basis, of the leases in the same target formation controlled by the applicant within the horizontal well unit, as provided in §22C-9-7a(f)(6) of this code; and

(iii) The highest production royalty percentage in the unit in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit and dated within the 24 months preceding the application date, as provided in §22C-9-7a(f)(7)(B)(ii) of this code.

(D) The reasonable fees and expenses of the independent, third-party selected by the chair of the commission to review the information filed by the applicant and render his or her report to the commission pursuant to this subsection shall be paid by the applicant.

(E) When filing information with the independent third-party selected by the chair of the commission, the applicant may mark the summary of the prevailing economic terms of leases and amounts paid for lease modifications, and any associated documents or information, as "CONFIDENTIAL" to the extent that the documents contain confidential, commercial information. Any information marked "CONFIDENTIAL" may only be used by the independent third-party selected by the chair of the commission for the purpose of performing his or her review and preparation and submission of his or her report to the commission, and by the court for the purpose of any appeal pursuant to §22C-9-7a(g)(5) of this code. All information marked "CONFIDENTIAL" pursuant to this subdivision shall retain that character in any court of competent jurisdiction on appeal, and the applicant may file a motion with the court seeking to have the documents sealed and withheld from the public record throughout the appeal from a final order of the commission pertaining to a horizontal well unit order. Furthermore, any information marked "CONFIDENTIAL" pursuant to this subdivision is exempt from disclosure under §29B-1-1 *et seq.* of this code.

(5) An order establishing a horizontal well drilling unit or dismissing an application shall be a final order. Any interested party aggrieved by the order may seek judicial review pursuant to section eleven of this article. Notice of appeal shall be made in accordance with §22C-9-11 of this code within 15 days of entry of the order. If no appeal has been received within 15 days, the order shall become final.

(h) *Unit order does not grant surface rights.* — A horizontal well unit order under this section does not grant or otherwise affect surface use rights: *Provided*, That without limiting the foregoing, in no event shall drilling be initiated upon, or other surface disturbance occur upon, the surface of or above a tract of minerals

that was forced into the unit pursuant to this section without the owner's consent.

(i) *Commission approval required for certain additional drilling.* — After the filing of an application for a horizontal well unit order, no well may be drilled or completed to or through the target formation of the proposed horizontal well unit unless authorized by the commission.

(j) *Contemporaneous permit applications authorized.*— Notwithstanding anything to the contrary in §22-6A-1 *et seq.* of this code, upon the filing of an application for a horizontal well unit order pursuant to this section, an applicant may file an application for a well work permit under §22-6A-1 *et seq.* of this code for any proposed development within the horizontal well unit for which the unit order is sought.

(k) *A party may appear in person.*— At any hearing an interested party may represent themselves or be represented by an attorney-at-law.

(l) No provision of this section alters the common law of this state regarding the deduction of post-production expenses for the purpose of calculating royalty.

(m) *Conflict resolution.*— After the effective date of this section, all applications requesting unitization for horizontal wells shall be filed pursuant to this section. Deep well horizontal unit applications filed before the effective date of this section shall continue to proceed under and be governed by the provisions of section seven of this article. With respect to horizontal well unit applications filed after the effective date of this section, if this section conflicts with section seven of this article, the provisions of this section shall prevail. When considering an application pursuant to this section, rules regarding deep wells promulgated before the effective date of this section shall not apply.

(n) *Unknown and unlocatable interest owners.*— Notwithstanding the existence of unknown and unlocatable interest owners, a horizontal well unit order may be entered and

development, drilling and production may occur in the horizontal well unit. Unknown and unlocatable interest owners of oil and gas in place not subject to lease shall be considered to have made an election to receive unitization consideration and lease their interest in the oil and gas mineral estate in the target formation to the applicant pursuant to §22C-9-7a(f)(7)(B) of this code. Unknown and unlocatable interest owners of working interest in property subject to lease before an application for a horizontal well unit is filed pursuant to this section shall be considered to have elected to participate in the drilling in the horizontal well unit on a carried basis pursuant to §22C-9-7a(f)(9) and §22c-9-7a(f)(10) of this code.

(o) *Opportunity of surface owners to acquire interests of unknown and unlocatable interest owners in oil and gas underlying horizontal well unit.* —

(1) When the interests of unknown and unlocatable interest owners' property is included in a horizontal well unit, if the applicant has not filed a proceeding pursuant to §55-12A-1 *et seq.* of this code (entitled Lease and Conveyance of Mineral Interests Owned by Missing or Unknown Owners or Abandoning Owners) with respect to the interest of an unknown and unlocatable interest owner in the horizontal well unit, and taxes on the unknown and unlocatable interest owners' property are not delinquent, then, after a horizontal well unit order is entered by the commission, the applicant shall inform the parties paying taxes on the surface overlying that portion of the oil and gas included in the horizontal well unit that the surface owner(s) (TSO) may acquire the underlying interest of the unknown and unlocatable interest owners in the horizontal well unit in a proceeding pursuant to this subsection and that information about the interest may be obtained from the applicant. Upon written request to the applicant by any TSO, the applicant shall, to the extent practicable under the circumstances, furnish the requesting TSO the following information: *Provided*, That applicant is not required to provide confidential, trade secret, attorney client communications or attorney work product:

(A) An identification of the last known owner, and information in the possession of the applicant regarding the last known identity and address of, the interest believed to be held by unknown and unlocatable interest owners,

(B) The efforts to locate unknown and unlocatable interest owners,

(C) Such other information known to the applicant which might be helpful in identifying or locating the present owners thereof,

(D) A copy of the most recent recorded instrument embracing the interest of the unknown and unlocatable interest owners as necessary to show the vesting of title to the minerals in the last record owner of the title to the minerals.

(E) The acreage of the tract and the net acreage of the unknown or unlocatable mineral owner or owners in the tract.

(F) The amount of money at any point to which the surface owners would be entitled upon written request.

(2) When an unknown and unlocatable interest in oil and gas is included in a horizontal well unit an owner of the surface overlying the interest may file a verified petition with respect to all the interests of unknown and unlocatable interest owners included in a horizontal well unit and underlying the surface owner's property. The circuit court in which the majority of the property subject to the petition authorized by this subsection is located has jurisdiction of the proceeding. The petition shall refer to this subsection and identify the oil and gas property subject to the petition. The prayer in any such petition shall be for the court to order, in the case of any defendant or heir, successor or assign of any defendant who does not appear to claim ownership of the defendant's interest for five years after the date the unit order is filed, a conveyance of the defendants' oil and gas mineral interest under this subsection, subject to the horizontal well unit order and lease terms approved by the commission, to the petitioners.

(3) In any proceeding authorized in this subsection the circuit court in which the petition is filed shall consider the property

subject to the petition leased to the participating operators in the horizontal well unit on the terms determined by the commission.

(4) The person filing a petition under this subsection shall join as defendants to the action all unknown and unlocatable interest owners having record title to the particular oil and gas minerals subject to the petition, and the unknown heirs, successors and assigns of all such owners not known to be alive. All persons not in being who might have some contingent or future interest therein, and all persons whether in being or not in being, having any interest, present, future or contingent, in the mineral interests subject to the petition, shall be fully bound by the proceedings under this subsection.

(5) Any other owner of an overlying surface tract shall be joined as a petitioner in the proceeding. Any other person purporting to be the unknown and unlocatable interest owner, or any heir, successor or assign of an unknown and unlocatable interest owner, may appear as a matter of right at any time prior to the entry of judgment confirming the deed authorized by this subsection, for the purpose of establishing his or her title to a mineral interest subject to the petition. If the appearing unknown and unlocatable interest owner's claim is established to the satisfaction of the court, the court shall dismiss the action as to the appearing owner's interest without cost, fees or damages: *Provided*, That if the appearance of the formerly unknown and unlocatable interest owner was as a result of the filing of the petition by the surface owner pursuant to this subsection, then the court may order the petitioner's reasonable proportionate attorneys' fees and costs to be paid to the petitioner out of the amounts payable to the formerly unknown and unlocatable interest owner.

(6) The court may appoint a special commissioner at any time to deliver a deed to the petitioners in the form provided herein five years after first production reported to the state occurs or one year after the first publication service of a petition under this subsection is made, whichever is later. The special commissioner shall be an attorney duly admitted to practice before the West Virginia Supreme Court of Appeals and in good standing, but may not be

required to give bond. If the petitioners do not agree as to the interest each is to acquire by the deed contemplated herein, or the division of any moneys associated therewith, the court shall equitably determine the interests of the petitioners.

(7) In any action under this subsection, if personal service of process is possible, it shall be made as provided by the West Virginia Rules of Civil Procedure. In addition, immediately upon the filing of the petition, the petitioner shall: (1) Publish a Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and in the county wherein any part of the oil and gas mineral estate described in the petition lies and any immediately adjacent counties; and (2) no later than the first day of publication, file a lis pendens notice in the county clerk's office of the county where the petition is filed and the county wherein the larger part of the oil and gas mineral estate described in the petition lies. Both the advertisement and the lis pendens notice shall set forth: (1) The names of the petitioner and the defendants, as they are known to be by the exercise of reasonable diligence by the petitioner, and their last known addresses; (2) the date and record data of the instrument or other conveyance which immediately created the oil and gas mineral interest; (3) an adequate description of the land as contained therein; (4) the source of title of the last known owners of the oil and gas mineral interests; and (5) a statement that the action is brought for the purpose of authorizing payments from a horizontal well unit, and thereafter, in the case of any defendant or heir, successor or assign of any defendant who does not appear to claim ownership of the defendant's interest within five years after the date of the court ordering a conveyance of the defendant's oil and gas mineral interest under this subsection, subject to the lease terms determined by the commission and horizontal well unit order, to the owners of the surface overlying the oil and gas mineral interest. In addition, the petitioner shall send notice by certified mail, return receipt requested, to the last known address, if there is one, of all named defendants. In addition, the court may order advertisement elsewhere or by additional means if there is reason to believe that additional advertisement might result in identifying and locating the unknown and unlocatable interest owners.

(8) Upon a finding by the court of the present ownership of the petitioners of the surface estate, the court shall order the special commissioner to convey to the proven surface owners, subject to the horizontal well unit order and lease terms approved by the commission, the mineral interest specified in the petition authorized herein, by a deed substantially in the form as follows:

This deed, made the _____ day of _____, 20____, between _____, special commissioner, grantor and _____, grantee,

Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by an order of the circuit court of _____ county, West Virginia, entered on the _____ day of _____, 20____, in civil action no. _____ therein pending, to convey the mineral interest more particularly described below to the grantee,

Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the provisions of the horizontal well unit order of the Oil and Gas Conservation Commission in _____ and lease terms provided therein, and further subject to all other liens and encumbrances of record, that certain oil and gas mineral interest in _____ County, West Virginia, more particularly described in the cited order of the circuit court as follows: (here insert the description in the order).

Witness the following signature.

Special Commissioner

(9) Prior to the delivery of the special commissioner's deed, no deed from owners of the surface to another party shall sever any benefits from this subsection from ownership of the surface. A deed doing so is void and unenforceable.

(10) After the date of the special commissioner's deed authorized herein, the surface owner grantee is entitled to receive

all proceeds due and payable under a horizontal well unit order attributable to the mineral interests specified in the special commissioner's deed accruing before and after the date of the special commissioner's deed.

(11) The applicant may not be joined as a party, but shall be served with copies of all pleadings and other papers filed in the proceeding, and may intervene at any time. A surface owner must provide a copy of the recorded Special Commissioner deed to the applicant and any other necessary information reasonably requested by the applicant before the applicant or any other operator has an obligation to provide payment to the surface owner.

(12) Payment by the applicant shall relieve the participating operators of all liability whatsoever that the participating operators may have had to any unknown and unlocatable interest owners, their heirs, successors and assigns with respect to the payment and all operations in the horizontal well unit, all operations therein and all production from the operations.

(13) If a surface owner does not file a petition pursuant to this subsection within six years of the date notice is given to a TSO as provided herein, amounts payable with respect to the unknown and unlocatable interest owners' interests included in a horizontal well unit shall be paid to the Oil and Gas Reclamation Fund established pursuant to §22-6-29 of this code, and the payment shall relieve the participating operators of all liability of the participating operators with respect to the horizontal well unit and all operations therein and production therefrom to any unknown and unlocatable interest owners, their heirs, successors and assigns and to any owners of surface overlying the unknown and unlocatable interest owners' interest, their heirs, successors and assigns, with respect to the payment.

(14) After the recording of the special commissioner's deed, no action may be brought by any unknown and unlocatable interest owner or any heir, successor or assign thereof either to recover any past or future proceeds accrued or to be accrued from the property subject to the deed, or to recover any right, title or interest in and to the mineral interest subject to the deed.

(15) If any unknown and unlocatable interest owner or heir, successor or assign thereof appears in the proceeding in circuit court, the unknown and unlocatable interest owner, if he or she establishes his or her claim to the satisfaction of the circuit court, shall only be entitled to receive amounts payable in connection with the horizontal well unit or production therefrom after the date of appearance in the proceeding. Further, the participating operators and the petitioning surface owners shall have no liability to the unknown and unlocatable interest owner or their heirs, successors or assigns for any amount paid with respect to the unknown and unlocatable interest or the horizontal well unit or production therefrom paid in accordance with this subsection.

(p) If any part of this section is adjudged to be unconstitutional or invalid, the invalidation shall not affect the validity of the remaining parts of this section; and to this end, the provisions of this section are hereby declared to be severable.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 694—A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4, and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to oil and gas conservation; expanding the membership of the Oil and Gas Conservation Commission; expanding the jurisdiction of the Oil and Gas Conservation Commission; expanding duties of the commission to include unitization of shallow and deep horizontal wells; amending and providing further declarations of public policy and legislative findings; defining terms; providing for conditions of applicability of the statute; establishing a horizontal well unit application process; requiring certain conditions be met prior to filing and approval of an application including defining percentages of interests of landowners and operators to establish unit control; requiring good faith negotiations by operators; providing for hearings on applications; setting out factors to be considered in the hearing and

documents to be filed before a hearing; providing for notice and publication at various stages of the process; defining interested parties and their involvement in the hearing processes; providing for standards of review and factors to be considered by the commission; providing for maximum unit sizes with limited exceptions; providing for an independent third party review of certain information and reporting of the same to the commission; providing for confidentiality of certain information; setting forth time frames and time limits; providing for a horizontal well unit orders and required contents of the orders; defining order terms; providing limitations on surface usage above non-consenting mineral owners; providing for payment terms for leased mineral interest owners without unitization clauses; providing for payment term options for non-leased mineral interest owners; providing payment term options for nonconsenting operators; allowing for modifications of the horizontal well unit order under specified conditions; providing for compensation for unknown and unlocatable mineral interest owners and defining the same; establishing a process using the courts for surface owners to acquire the mineral interests and funds held by the operator of unknown or unlocatable interest owners after a specified time period, notices, and court proceedings; providing applicability of the existing and new statutory sections for deep wells based on the effective date; providing a severability clause; and establishing and modifying rulemaking authority.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 694, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Brown, Caputo, Clements, Geffert, Romano, Stollings, and Sypolt—8.

Absent: Beach and Woelfel—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. 694) passed with its House of Delegates amended title.

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

The Senate proceeded to the ninth order of business.

Eng. House Bill 2631, Provide for WVDNR officers to be able to work "off duty".

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

Eng. Com. Sub. for House Bill 4020, Relating to reorganizing the Department of Health and Human Resources.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4050, Defining terms related to livestock trespassing.

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

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

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

ARTICLE 18. GENERAL STOCK LAW.**§19-18-1. Livestock trespassing on property of another; damages for injuries to person or property; notice to livestock owner; containment of livestock; costs for containment.**

(a) If livestock enters the property of a landowner without that landowner's consent, the owner of the livestock is liable for damages for personal injury or property damage in a civil action in magistrate or circuit court.

(b) The landowner must attempt to contact the owner of the trespassing livestock within 48 hours of the trespass. If the owner cannot be contacted within 48 hours, the landowner shall notify the county sheriff.

(c) The landowner may contain the trespassing livestock on his or her property, but is not required to do so. If the landowner is able to contact the owner of the trespassing livestock pursuant to subsection (a) of this section, he or she shall also inform the owner of the costs of containment and shall allow the owner to retrieve the livestock.

(d) The owner of the trespassing livestock and the landowner shall attempt to mutually agree upon a fair cost for any containment. A fair cost for containment is an amount which would be allowed for the sheriff for containing similar livestock. If the negotiation fails, or if the landowner is not otherwise reimbursed for the costs for containment, the landowner may seek monetary damages in a civil action for these costs.

(e) "Livestock" is defined as an animal of the bovine, equine, porcine, ovine or caprine specie, domestic poultry, peafowl, guineafowl, leporidae, camelid, emu, and captive cervid as defined in §19-2H-2 of this code.

The bill (Eng. Com. Sub. for H. B. 4050), as amended, was then ordered to third reading.

Eng. House Bill 4296, To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

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

Eng. Com. Sub. for House Bill 4311, Creating criminal penalties for illegal voting activity.

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

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

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

ARTICLE 7. CONTESTED ELECTIONS.

§3-9-17. Illegal voting; deceiving voters; penalties.

(a) Any person who knowingly and willfully votes or attempts to vote more than once at the same election held in this state; in more than one county in this state at the same or equivalent election; or, in this state and another state or territory at the same or equivalent election, irrespective of different offices, questions, or candidates on the ballot, knowing the same to be illegal, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than \$10,000, or both, in the discretion of the court.

(b) ~~If any~~ Any person who knowingly and willfully votes or attempts to vote when the person knows he or she is not legally entitled to do so; ~~or votes more than once in the same election; or knowingly votes or attempts to vote more than one ballot for the same office, or on the same question~~ or procures or assists in procuring an illegal vote to be admitted, or received, at an election, knowing the same to be illegal; or causes or assists in causing a legal vote to be rejected, knowing the same to be legal; ~~or, is guilty~~

of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than \$10,000, or both, in the discretion of the court.

(c) Any person who knowingly and willfully, with intent to deceive, alters the ballot of a voter by marking out the name of any person for whom such voter desires to vote; or, with like intent, writes the name of any person on such ballot other than those directed by the voter; or with like intent, makes any alteration thereof, whether such ballot be voted or not; or defrauds any voter at any election, by deceiving and causing him or her to vote for a different person for any office than he or she intended or desired to vote for, he shall be guilty of a misdemeanor, and, on conviction thereof, shall for each offense be fined not more than \$1,000 or confined in the county jail for not more than one year, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than \$10,000, or both, in the discretion of the court.

The bill (Eng. Com. Sub. for H. B. 4311), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4329, To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

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

Eng. House Bill 4331, West Virginia's Urban Mass Transportation Authority Act.

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

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

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

**ARTICLE 27. INTERGOVERNMENTAL RELATIONS —
URBAN MASS TRANSPORTATION SYSTEMS.**

§8-27-21a. Federal grants; wage deductions.

Notwithstanding any provision of this code to the contrary, the term "deductions", as defined in §21-5-1 of this code and applied to the wages of an employee of an urban mass transportation authority under this article which is a direct or indirect recipient of federal funding from the Federal Transit Administration pursuant to the Urban Mass Transportation Act of 1964, as amended, includes amounts authorized for union or labor organization dues or fees. This section applies only to urban mass transportation authorities under this article.

Following discussion,

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

The bill (Eng. H. B. 4331), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4441, Creating a Class M air rifle stamp.

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

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

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

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5k. Use of air rifles to hunt.

(a) Notwithstanding any other provision of this code to the contrary, any person lawfully entitled to hunt may hunt with an air

rifle during small game and big game firearms season: *Provided*, That air rifles may only be used for deer hunting in counties open to firearm deer hunting.

(b) An air rifle may not be substituted for a muzzleloader during any muzzleloader season or during the Mountaineer Heritage season.

(c) No person may be afield with an air rifle and bow, or with an air rifle or any arrow at the same time.

(d) No person may hunt with an air bow at any time.

(e) Any person hunting with an air rifle is subject to all other rifle and firearm hunting regulations according to this chapter and rules promulgated thereunder.

(f) Only air rifles meeting the following specifications may be used for hunting big game:

(1) No person may hunt big game with an air rifle of less than .45 caliber and with a bullet of less than 200 grains, except that wild turkey may be hunted with an air rifle of .22 caliber or larger.

(2) No person may hunt small game with an air rifle of less than .22 caliber.

(g) Air rifles may be shot within 500 feet of a dwelling.

The bill (Eng. Com. Sub. for H. B. 4441), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4466, Relating to School Building Authority's review of school bond applications.

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

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

On page eight, section fifteen, lines one hundred sixty-five through one hundred eighty, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision (2), to read as follows:

(2) A county board may apply to the authority for funding under this article as a part of the county's bond finance plan for a proposed capital improvement bond levy to be submitted to the voters of that county. The county board shall first submit a request for the funding to the executive director of the authority prior to the county board's proposed bond levy election. After initial consultation with the executive director, the county board shall prepare a written outline of the bond finance plan, the capital improvements to be made with levy funds, and the amount and timing of funding requested from the authority. The county board shall then present its request at a meeting of the members of the authority.

Grants of financial assistance that have received initial approval under this section are contingent upon passage of the bond levy and final approval by the School Building Authority of the county's bond finance plan. Any materials produced by the county or its county board that refer to the authority shall include a statement of this contingency and terms. Notwithstanding any other provision of this subsection, financial assistance to be provided by the authority may only be used to pay costs of capital improvements and may not be pledged as security for or repayment of any bonds issued by the county board.

Upon passage of bond levy, the county board shall have four years to finalize the project: *Provided*, That the authority may grant an extension to the four years in extenuating circumstances.

The provisions of this subsection do not apply to any proposed capital improvement bond levy that is scheduled to be submitted to the voters on or before December 31, 2022.

The bill (Eng. Com. Sub. for H. B. 4466), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4540, To update all retirement plans to comport with federal law.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers.

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 6A. MOTOR VEHICLE DEALERS, DISTRIBUTORS,
WHOLESALEERS, AND MANUFACTURERS.**

§17A-6A-2. Governing law.

(a) In accord with the settled public policy of this state to protect the rights of its citizens, each franchise or agreement between a manufacturer or distributor and a dealer or dealership which is located in West Virginia, or is to be performed in substantial part in West Virginia, shall be construed and governed by the laws of the State of West Virginia, regardless of the state in which it was made or executed and of any provision in the franchise or agreement to the contrary. The public policy of this state is to protect the rights of its citizens and each new motor vehicle dealer for any agreement governed by this article.

(b) The provisions of this article apply only to any franchises and agreements entered into, continued, modified, or renewed subsequent to the effective date of this article.

§17A-6A-3. Definitions.

For the purposes of this article, the words and phrases defined in this section have the meanings ascribed to them, except where the context clearly indicates a different meaning.

(1) "Dealer agreement" means the franchise, agreement, or contract in writing between a manufacturer, distributor, and a new motor vehicle dealer which purports to establish the legal rights and obligations of the parties to the agreement or contract with regard to the operation and business of a new motor vehicle dealer, including, but not limited to, the purchase, lease, or sale of new motor vehicles, accessories, service, and sale of parts for motor vehicles where applicable.

(2) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a ~~deceased~~ new motor vehicle dealer who is entitled to inherit the ~~deceased~~ dealer's ownership interest in the new motor vehicle dealership under the terms of the dealer's will, or who has otherwise been designated in writing by a deceased dealer to succeed the deceased dealer in the new motor vehicle dealership, or is entitled to inherit under the laws of intestate succession of this state. With respect to an incapacitated new motor vehicle dealer, the term means the person appointed by a court as the legal representative of the new motor vehicle dealer's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased new motor vehicle dealer. However, the term means only that designated successor nominated by the new motor vehicle dealer in a written document filed by the dealer with the manufacturer or distributor, if ~~such~~ a document is filed.

(3) "Distributor" means any person, resident, or nonresident who, in whole or in part, offers for sale, sells, or distributes any new motor vehicle to a new motor vehicle dealer or who maintains a factor representative, resident, or nonresident, or who controls any person, resident, or nonresident who, in whole or in part, offers for sale, sells, or distributes any new motor vehicle to a new motor vehicle dealer.

(4) "Established place of business" means a permanent, enclosed commercial building located within this state easily accessible and open to the public at all reasonable times and at which the business of a new motor vehicle dealer, including the display and repair of motor vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land-use regulatory ordinances and as licensed by the Division of Motor Vehicles.

(5) "Factory branch" means an office maintained by a manufacturer or distributor for the purpose of selling or offering for sale vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives. The term includes any sales promotion organization maintained by a manufacturer or distributor which is engaged in promoting the sale of a particular make of new motor vehicles in this state to new motor vehicle dealers.

(6) "Factory representative" means an agent or employee of a manufacturer, distributor, or factory branch retained or employed for the purpose of making or promoting the sale of new motor vehicles or for supervising or contracting with new motor vehicle dealers or proposed motor vehicle dealers.

(7) "Good faith" means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade.

(8) "Manufacturer" means any person who manufactures or assembles new motor vehicles; or any distributor, factory branch, or factory representative and, in the case of a school bus, truck tractor, road tractor, or truck as defined in ~~section one, article one of this chapter~~, §17A-1-1 of this code, also means a person engaged in the business of manufacturing a school bus, truck tractor, road tractor or truck, their engines, power trains, or rear axles, including when engines, power trains or rear axles are not warranted by the final manufacturer or assembler, and any distributor, factory branch, or representative.

(9) "Motor vehicle" means that term as defined in ~~section one, article one of this chapter, §17A-1-1 of this code,~~ including a motorcycle, school bus, truck tractor, road tractor, truck, or recreational vehicle, all-terrain vehicle and utility terrain vehicle as defined in subsections (c), (d), (f), (h), (l), (nn) and (vv), respectively, of in said section, but not including a farm tractor or farm equipment. The term "motor vehicle" also includes a school bus, truck tractor, road tractor, truck, its component parts, including, but not limited to, its engine, transmission, or rear axle manufactured for installation in a school bus, truck tractor, road tractor, or truck.

(10) "New motor vehicle" means a motor vehicle which is in the possession of the manufacturer, distributor, or wholesaler, or has been sold only to a new motor vehicle dealer and on which the original title has not been issued from the new motor vehicle dealer.

(11) "New motor vehicle dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of its motor vehicles, who is engaged in the business of purchasing, selling, leasing, exchanging, or dealing in new motor vehicles, service of said vehicles, warranty work, and sale of parts who has an established place of business in this state and is licensed by the Division of Motor Vehicles.

(12) "The operation and business of a new motor vehicle dealer or dealership" includes selling, leasing, exchanging, or otherwise conveying a new motor vehicle at retail and performing warranty and recall work for a motor vehicle: *Provided*, That the provisions of this subdivision do not apply to over the air updates.

~~(12)~~ (13) "Person" means a natural person, partnership, corporation, association, trust, estate, or other legal entity.

~~(13)~~ (14) "Proposed new motor vehicle dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. "Proposed motor vehicle dealer" does not include a person whose dealer agreement is being renewed or continued.

~~(14)~~ (15) "Relevant market area" means the area located within a 20 air mile radius around an existing same line-make new motor vehicle dealership: *Provided*, That a 15 mile relevant market area as it existed prior to the effective date of this statute shall apply to any proposed new motor vehicle dealership as to which a manufacturer or distributor and the proposed new motor vehicle dealer have executed on or before the effective date of this statute a written agreement, including a letter of intent, performance agreement, or commitment letter concerning the establishment of the proposed new motor vehicle dealership.

§17A-6A-5. Circumstances not constituting good cause.

Notwithstanding any agreement, the following alone does not constitute good cause for the termination, cancellation, nonrenewal, or discontinuance of a dealer agreement under ~~subdivision (d), subsection (1), section four of this article: §17A-6A-4 of this code.~~

~~(a)~~ (1) A change in ownership of the new motor vehicle dealer's dealership. This ~~subdivision~~ section does not authorize any change in ownership which would have the effect of a sale or an assignment of the dealer agreement or a change in the principal management of the dealership without the manufacturer's or distributor's prior written consent which may not be unreasonably or untimely withheld.

~~(b)~~ (2) The refusal of the new motor vehicle dealer to purchase or accept delivery of any new motor vehicle parts, accessories, or any other commodity or services not ordered by the new motor vehicle dealer.

~~(c)~~ (3) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a dealer agreement for the sale of another make or line of new motor vehicles, or that the new motor vehicle dealer has established another make or line of new motor vehicles in the same dealership facilities as those of the manufacturer or distributor: *Provided*, That the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles, and that the new

motor vehicle dealer remains in substantial compliance with the terms and conditions of the dealer agreement and with any reasonable facilities' requirements of the manufacturer or distributor.

~~(d)~~ (4) The fact that the new motor vehicle dealer designates as an executive manager or sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new motor vehicle dealer's spouse, son, or daughter: *Provided*, That the sale or transfer shall not have the effect of a sale or an assignment of the dealer agreement or a change in the principal management of the dealership without the manufacturer's or distributor's prior written consent, which may not be unreasonably or untimely withheld or refused in a manner inconsistent with §17A-6A-11 of this code.

~~(e)~~ (5) This section does not apply to any voluntary agreement entered into after a disagreement or civil action has arisen for which the dealer has accepted separate and valuable consideration. Any prospective agreement is void as a matter of law.

§17A-6A-8a. Compensation to dealers for service rendered.

~~(1)~~ (a) Every motor vehicle manufacturer, distributor, or wholesaler, factory branch or distributor branch, or officer, agent, or representative thereof, shall:

~~(a)~~ (1) Specify in writing to each of its motor vehicle dealers, the dealer's obligation for delivery, preparation, warranty, and factory recall services on its products;

~~(b)~~ (2) Compensate the motor vehicle dealer for warranty and factory recall service required of the dealer by the manufacturer, distributor or wholesaler, factory branch or distributor branch or officer, agent, or representative thereof;

~~(c)~~ (3) Provide the dealer the schedule of compensation, which shall be reasonable, to be paid the dealer for parts, work, and service, including reasonable and adequate allowances for diagnostic time necessary for a qualified technician to perform the service, in connection with warranty and recall services and the

time allowance for the performance of the diagnosis, work, and service. If a disagreement arises between the manufacturer, distributor, or wholesaler, factory branch or distributor branch and the new motor vehicle dealer about the time allowance for the performance of the diagnosis, work, or service, the new motor vehicle dealer shall submit a written request for modification of the time allowance. A manufacturer, distributor, or wholesaler, factory branch or distributor branch shall not unreasonably deny a written request submitted by a new motor vehicle dealer for modification of a time allowance for a specific warranty repair, or a request submitted by a new motor vehicle dealer for an additional time allowance for either diagnostic or repair work on a specific vehicle covered under warranty, provided the request includes any information and documentation reasonably required by the manufacturer, distributor, or wholesaler, factory branch or distributor branch to assess the merits of the request; and

(4) Provide compensation to a new motor vehicle dealer for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the vehicle manufacturer or distributor and performed at the dealership to satisfy the customer.

~~(2)~~ (b) In no event may:

~~(a)~~ (1) The schedule of compensation fail to compensate the dealers for the diagnosis, work, and services they are required to perform in connection with the dealer's delivery and preparation obligations, or fail to adequately and fairly compensate the dealers for labor time or rate, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements and factory recalls;

~~(b)~~ (2) Any manufacturer, distributor or wholesaler, or representative thereof, pay its dealers an amount of money for warranty or recall work that is less than that charged by the dealer to the retail customers of the dealer for nonwarranty and nonrecall work of the like kind; and

(e) (3) Any manufacturer, distributor or wholesaler, or representative thereof, compensate for warranty and recall work based on a flat-rate figure that is less than what the dealer charges for retail work.

(3) (c) It is a violation of this section for any manufacturer, distributor, wholesaler, or representative to require any dealer to pay in any manner, surcharges, limited allocation, audits, charge backs, or other retaliation if the dealer seeks to recover its nonwarranty retail rate for warranty and recall work.

(4) (d) The retail rate charged by the dealer for parts is established by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty customer-paid service repair orders that contain warranty-like parts or 90 consecutive days of nonwarranty customer-paid service repair orders that contain warranty-like parts covering repairs made no more than 180 days before the submission and declaring the average percentage markup. A dealer may decide to submit a single set of repair orders for the purpose of calculating both the labor rate and parts mark-up, or submit separate sets of repair orders for a labor rate and parts mark-up calculation.

(5) (e) The retail rate customarily charged by the dealer for labor rate must be established-using the same process as provided under subsection (4)(d) of this section and declaring the average labor rate. The average labor rate must be determined by dividing the amount of the dealer's total labor sales by the number of total hours that generated those sales. If a labor rate and parts markup rate simultaneously declared by the dealer, the dealer may use the same repair orders to complete each calculation as provided under subsection (4)(d) of this section. A reasonable allowance for labor for diagnostic time shall be either included in the manufacturer's labor time allowance or listed as a separate compensable item. A dealer may request additional time allowance for either diagnostic or repair time for a specific repair, which request shall not be unreasonably denied by the manufacturer.

~~(6)~~ (f) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work may not be included in the calculation:

~~(a)~~ (1) Repairs for manufacturer or distributor special events, specials, or promotional discounts for ~~retain~~ customer repairs;

~~(b)~~ (2) Parts sold at wholesale;

~~(c)~~ (3) Routine maintenance not covered under any retail customer warranty, including bulbs, batteries, fluids, filters, and belts not provided in the course of repairs;

~~(d)~~ (4) Nuts, bolts, fasteners, and similar items that do not have an individual part number;

~~(e)~~ (5) Tires; and

~~(f)~~ (6) Vehicle reconditioning.

~~(7)~~ (g) The average of the parts markup rates and labor rate is presumed to be reasonable and must go into effect 30 days following the manufacturer's approval. A manufacturer or distributor ~~may~~ must approve or rebut the presumption by demonstrating that the submitted parts markup rate or labor rate is: (1) fraudulent or inaccurate; (2) not established in accordance with this section; or (3) the submitted parts markup rate or labor rate is unreasonable in light of the practices of all other same line-make franchised motor vehicle dealers in an economically similar area of the state offering the same line-make vehicles, not later than 30 days after submission. If the average parts markup rate or average labor rate is ~~rebutted, or both~~ disputed by the manufacturer or distributor, the manufacturer or distributor shall provide written notice to the new motor vehicle dealer stating the specific reasons for the rebuttal, providing a full explanation of the reasons for the allegation, and providing a copy of all calculations used by the manufacturer or distributor in determining the manufacturer or distributor's position if the manufacturer's or distributor's objection is based on the accuracy or reasonableness of the new motor vehicle dealer's rate submission. propose an adjustment of the average percentage parts markup or labor rate based on that rebuttal

not later than 30 days after submission. If the new motor vehicle dealer does not agree with the manufacturer's proposed average percentage parts markup or labor rate, the new motor vehicle dealer may file a civil action in the circuit court for the county in which it operates not later than 90 days after receipt of that proposal by the manufacturer or distributor. In the event a civil action is filed, the manufacturer or distributor has the burden of proof to establish by a preponderance of the evidence that the new motor vehicle dealer's submitted parts markup rate or labor rate was fraudulent, inaccurate, not established in accordance with this section, or is unreasonable in light of the practices of all other same line-make franchised motor vehicle dealers in an economically similar area of the state offering the same line-make vehicles.

~~(8)~~ (h) Each manufacturer, in establishing a schedule of compensation for warranty work, shall rely on the vehicle dealer's declaration of hourly labor rates and parts as stated in subsections ~~(4), (5) and (6)~~ (d), (e) and (f) of this section and may not obligate any vehicle dealer to engage in unduly burdensome or time-consuming documentation of rates or parts, including obligating vehicle dealers to engage in transaction-by-transaction or part-by-part calculations.

~~(9)~~ (i) A dealer or manufacturer may demand that the average parts markup or average labor rate be calculated using the process provided under subsections ~~(4) and (5)~~ (d) and (e) of this section; however, the demand for the average parts markup may not be made within 12 months of the last parts markup declaration and the demand for the average labor rate may not be made within 12 months of the last labor rate declaration. If a parts markup or labor rate is demanded by the dealer or manufacturer, the dealer shall determine the repair orders to be included in the calculation under subsections ~~(4) and (5)~~ (d) and (e) of this section.

~~(10)~~ (j) As it applies to a school bus, truck tractor, road tractor, and truck as defined in ~~section one, article one of this chapter,~~ §17A-1-1 of this code with a gross vehicle weight ~~on~~ in excess of 26,001 pounds the manufacturer, distributor and/or O. E. M. supplier shall pay the dealer its incurred actual time at the retail labor rate for retrieving a motor vehicle and returning a motor

vehicle to the dealer's designated parking area. The dealer shall be paid \$50 minimum for each operation that requires the use of each electronic tool (i.e. laptop computer). The manufacturer or distributor may not reduce what is paid to a dealer for this retrieval or return time, or for the electronic tool charge. The dealer is allowed to add to a completed warranty repair order three hours for every 24 hours the manufacturer, distributor, and/or O. E. M. supplier makes the dealer stop working on a vehicle while the manufacturer, distributor, and/or O. E. M. supplier decides how it wants the dealer to proceed with the repairs.

~~(11)~~ (k) All claims made by motor vehicle dealers pursuant to ~~the~~ this section for compensation for delivery, preparation, warranty, and recall work, including labor, parts, and other expenses, shall be paid by the manufacturer within 30 days after approval and shall be approved or disapproved by the manufacturer within 30 days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. ~~No~~ A claim which has been approved and paid may not be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition or the dealer failed to reasonable substantiate the claim in accordance with the reasonable written requirements of the manufacturer or distributor in effect at the time the claim arose. No charge back may be made until the dealer has had notice and an opportunity to support the claim in question. ~~No~~ An otherwise valid reimbursement claims may not be denied once properly submitted within manufacturers' submission guidelines due to a clerical error or omission, a dealer's incidental failure to comply with a specific non-material claim processing requirement or administrative technicality, or based on a different level of technician technical certification or the dealer's failure to subscribe to any manufacturer's computerized training programs. The dealer shall have 30 days to respond to any audit by a manufacturer or distributor.

~~(12)~~ (l) Notwithstanding the terms of a franchise agreement or provision of law in conflict with this section, the dealer's delivery, preparation, warranty, and recall obligations constitutes the dealer's

sole responsibility for product liability as between the dealer and manufacturer and, except for a loss caused by the dealer's failure to adhere to the obligations, a loss caused by the dealer's negligence or intentional misconduct or a loss caused by the dealer's modification of a product without manufacturer authorization, the manufacturer shall reimburse the dealer for all loss incurred by the dealer, including legal fees, court costs, and damages, as a result of the dealer having been named a party in a product liability action.

(m) When calculating the compensation that must be provided to a new motor vehicle dealer for labor and parts used to fulfill warranty and recall obligations under this section, all of the following apply:

(1) The manufacturer shall use time allowances for the diagnosis and performance of the warranty and recall work and service that are reasonable and adequate for the work or services to be performed by a qualified technician;

(2) At the request of the new motor vehicle dealer, the manufacturer shall use any retail labor rate and any retail parts markup percentage established in accordance with this section in calculating the compensation;

(3) If the manufacturer provided a part or component to the new motor vehicle dealer at no cost to use in performing repairs under a recall, campaign service action, or warranty repair, the manufacturer shall provide to the new motor vehicle dealer an amount equal to the retail parts markup for that part or component, which shall be calculated by multiplying the dealer cost for the part or component as listed in the manufacturer's price schedule by the retail parts markup percentage; and

(4) A manufacturer shall not assess penalties, surcharges, or similar costs to a new motor vehicle dealer, transfer or shift any costs to a franchisee, limit allocation of vehicles or parts to a new motor vehicle dealer, or otherwise take retaliatory action against a new motor vehicle dealer based on any new motor vehicle dealer's exercise of its rights under this section. This section does not

prohibit a manufacturer or distributor from increasing the price of a vehicle or part in the ordinary course of business.

§17A-6A-10. Prohibited practices.

(+) (a) A manufacturer or distributor may not require any new motor vehicle dealer in this state to do any of the following:

(a) (1) Order or accept delivery of any new motor vehicle, part or accessory of the vehicle, equipment, or any other commodity not required by law which was not voluntarily ordered by the new motor vehicle dealer. This section does not prevent the manufacturer or distributor from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer or distributor;

(b) (2) Order or accept delivery of any new motor vehicle with special features, accessories, or equipment not included in the list price of the new motor vehicle as publicly advertised by the manufacturer or distributor;

(c) (3) Unreasonably participate monetarily in any advertising campaign or contest, or purchase any promotional materials, display devices, display decorations, brand signs and dealer identification, nondiagnostic computer equipment and displays, or other materials at the expense of the new motor vehicle dealer;

(d) (4) Enter into any agreement with the manufacturer or distributor or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement, limit inventory, invoke sales and service warranty, or other types of audits or any contractual agreement or understanding existing between the dealer and the manufacturer or distributor, or any manufacturer or distributor's required or designated vendor or supplier. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement is not a violation of this article;

(e) (5) Change the capital structure or financial requirements of the new motor vehicle dealership without reasonable business justification in light of the dealer's market, historical performance

and compliance with prior capital structure or financial requirements and business necessity, or the means by or through which the dealer finances the operation of the dealership if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria. The burden of proof is on the manufacturer to prove business justification by a preponderance of the evidence;

(~~f~~) (6) Refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products, provided that the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, and makes no change in the principal management of the dealer. Notwithstanding the terms of any franchise agreement, a manufacturer or distributor may not enforce any requirements, including facility or image requirements, that a new motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space, when the requirements are unreasonable considering current economic conditions and are not otherwise justified by reasonable business considerations. The burden of proving that current economic conditions or reasonable business considerations justify ~~exclusive facilities~~ such actions is on the manufacturer or distributor and must be proven by a preponderance of the evidence;

(~~g~~) (7) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, where to do so would be unreasonable. The burden is on the manufacturer or distributor to prove reasonableness by a preponderance of the evidence;

(~~h~~) (8) Prospectively assent to a waiver of trial by jury release, arbitration, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this article or require any controversy between a new motor vehicle dealer and a manufacturer or distributor to be referred to a person other than the duly constituted courts of this state or the United States District Courts of the Northern or Southern Districts of West Virginia. Nothing in this article prevents a motor vehicle dealer, after a civil

action is filed, from entering into any agreement of settlement, arbitration, assignment, or waiver of a trial by jury;

(i) ~~(9)~~ ~~To~~ Coerce or require any dealer, whether by agreement, program, incentive provision, or otherwise, to construct improvements to its facilities or to install new signs, or other franchisor image elements that replace or substantially alter those improvements, signs or franchisor image elements completed within the ~~preceding ten~~ preceding 15 years that were required and approved by the manufacturer, factory branch, distributor or distributor branch, or one of its affiliates. If a manufacturer, factory branch, distributor or distributor branch offers incentives or other payments to a consumer or dealer paid on individual vehicle sales under a program offered after the effective date of this subdivision and available to more than one dealer in the state that are premised, wholly or in part, on dealer facility improvements or installation of franchiser image elements required by and approved by the manufacturer, factory branch, distributor or distributor branch and completed within ~~ten~~ 15 years preceding the program shall be ~~deemed~~ determined to be in compliance with the program requirements pertaining to construction of facilities or installation of signs or other franchisor image elements that would replace or substantially alter those previously constructed or installed ~~with~~ within that ~~ten~~ 15 year period. This subdivision shall not apply to a program that is in effect with more than one dealer in the state on the effective date of this subsection, nor to any renewal of such program, nor to a modification that is not a modification of a material term or condition of such program;

(j) ~~(10)~~ ~~To~~ Condition the award, sale, transfer, relocation, or renewal of a franchise or dealer agreement or to condition sales, service, parts, or finance incentives upon site control or an agreement to renovate or make substantial improvements to a facility: *Provided*, That voluntary and noncoerced acceptance of such conditions by the dealer in writing, including, but not limited to, a written agreement for which the dealer has accepted separate and valuable consideration, does not constitute a violation; and

~~(k)~~ ~~(11)~~ ~~To~~ Enter into a contractual requirement imposed by the manufacturer, distributor, or a captive finance source as follows:

(i) (A) In this section, "captive finance source" means any financial source that provides automotive-related loans or purchases retail installment contracts or lease contracts for motor vehicles in this state and is, directly or indirectly, owned, operated, or controlled by such manufacturer, factory branch, distributor or distributor branch.

(ii) (B) It ~~shall be~~ is unlawful for any manufacturer, factory branch, captive finance source, distributor or distributor branch, or any field representative, officer, agent, or any representative of them, notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require any of its franchised dealers located in this state to agree to any terms, conditions, or requirements in subdivisions ~~(a) through (j)~~, (1) through (10), inclusive, of this subsection in order for any such dealer to sell to any captive finance source any retail installment contract, loan, or lease of any motor vehicles purchased or leased by any of the dealer's customers, or to be able to participate in, or otherwise, directly or indirectly, obtain the benefits of the consumer transaction incentive program payable to the consumer or the dealer and offered by or through any captive finance source as to that incentive program.

(iii) (C) The applicability of this section is not affected by a choice of law clause in any agreement, waiver, novation, or any other written instrument.

(iv) (D) It ~~shall be~~ is unlawful for a manufacturer or distributor to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association, or person to accomplish what would otherwise be illegal conduct under this section on the part of the manufacturer or distributor.

(2) (b) A manufacturer or distributor may not do any of the following:

(a)-(i) (1) Fail to deliver new motor vehicles or new motor vehicle parts or accessories within a reasonable time and in reasonable quantities relative to the new motor vehicle dealer's market area and facilities, unless the failure is caused by acts or

occurrences beyond the control of the manufacturer or distributor, or unless the failure results from an order by the new motor vehicle dealer in excess of quantities reasonably and fairly allocated by the manufacturer or distributor. ~~No~~ A manufacturer or distributor may not penalize a new motor vehicle dealer for an alleged failure to meet sales quotas where the alleged failure is due to actions of the manufacturer or distributor;

~~(ii)~~ (2) Refuse to offer to its same line-make new motor vehicle dealers all models manufactured for that line-make, including, but not limited to, any model that contains a separate label or badge indicating an upgraded version of the same model. This provision does not apply to motorhome, travel trailer, or fold-down camping trailer manufacturers;

~~(iii)~~ (3) Require as a prerequisite to receiving a model or series of vehicles that a new motor vehicle dealer pay an extra unreasonable acquisition fee or surcharge, or purchase unreasonable advertising displays or other materials, or conduct unreasonable facility or image remodeling, renovation, or reconditioning of the dealer's facilities, or any other type of unreasonable upgrade requirement;

(4) Use motor vehicles in transit but not yet in the new motor vehicle dealer's physical possession in any sales effective or efficiency formula to the detriment of the new motor vehicle dealer;

~~(b)~~ (5) Refuse to disclose to a new motor vehicle dealer the method and manner of distribution of new motor vehicles by the manufacturer or distributor, including any numerical calculation or formula used, nationally or within the dealer's market, to make the allocations within 30 days of a request. Any information or documentation provided by the manufacturer may be subject to a reasonable confidentiality agreement;

~~(c)~~ (6) Refuse to disclose to a new motor vehicle dealer the total number of new motor vehicles of a given model, which the manufacturer or distributor has sold during the current model year

within the dealer's marketing district, zone, or region, whichever geographical area is the smallest within 30 days of a request;

~~(d)~~ (7) Increase prices of new motor vehicles which the new motor vehicle dealer had ordered and then eventually delivered to the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer which has been submitted to the vehicle manufacturer is evidence of each order. In the event of manufacturer or distributor price reductions or cash rebates, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of \$5 shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. A price difference applicable to new model or series motor vehicles at the time of the introduction of the new models or the series is not a price increase or price decrease. This subdivision does not apply to price changes caused by the following:

~~(i)~~ (A) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

~~(ii)~~ (B) In the case of foreign-made vehicles or components, revaluation of the United States dollar; or

~~(iii)~~ (C) Any increase in transportation charges due to an increase in rates charged by a common carrier and transporters;

~~(e)~~ (8) Offer any refunds or other types of inducements to any dealer for the purchase of new motor vehicles of a certain line-make to be sold to this state or any political subdivision of this state without making the same offer available upon request to all other new motor vehicle dealers of the same line-make;

~~(f)~~ (9) Release to an outside party, except under subpoena or in an administrative or judicial proceeding to which the new motor vehicle dealer or the manufacturer or distributor are parties, any business, financial, or personal information which has been

provided by the dealer to the manufacturer or distributor, unless the new motor vehicle dealer gives his or her written consent;

~~(g)~~ (10) Deny a new motor vehicle dealer the right to associate with another new motor vehicle dealer for any lawful purpose;

~~(h)~~ (11) Establish, operate, or engage in the business of a new motor vehicle dealership. A manufacturer or distributor is not considered to have established, operated, or engaged in the business of a new motor vehicle dealership if the manufacturer or distributor is:

(A) Operating a preexisting dealership temporarily for a reasonable period;

(B) Operating a preexisting dealership which is for sale at a reasonable price; and

(C) Operating a dealership with another person who has made a significant investment in the dealership and who will acquire full ownership of the dealership under reasonable terms and conditions;

~~(i)~~ (12) A manufacturer may not, except as provided by this section, directly or indirectly:

(A) Own an interest in a dealer or dealership: *Provided*, That a manufacturer may own stock in a publicly held company solely for investment purposes;

(B) Operate a new or used motor vehicle dealership, including, but not limited to, displaying a motor vehicle intended to facilitate the sale of new motor vehicles other than through franchised dealers, unless the display is part of an automobile trade show that more than two automobile manufacturers participate in; or

(C) Act in the capacity of a new motor vehicle dealer;

~~(j)~~ (13) A manufacturer or distributor may own an interest in a franchised dealer, or otherwise control a dealership, for a period not to exceed 12 months from the date the manufacturer or distributor acquires the dealership if:

(i) (A) The person from whom the manufacturer or distributor acquired the dealership was a franchised dealer; and

(ii) (B) The dealership is for sale by the manufacturer or distributor at a reasonable price and on reasonable terms and conditions;

~~(k)~~ (14) The 12 month period may be extended for an additional 12 months. Notice of any such extension of the original twelve-month period must be given to any dealer of the same line-make whose dealership is located in the same county, or within 20 air miles of, the dealership owned or controlled by the manufacturer or distributor prior to the expiration of the original 12 month period. Any dealer receiving the notice may protest the proposed extension within 30 days of receiving notice by bringing a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the extension;

~~(l)~~ (15) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a dealership if the manufacturer's or distributor's participation in the dealership is in a bona fide relationship with a franchised dealer who:

(i) (A) Has made a significant investment in the dealership, subject to loss;

(ii) (B) Has an ownership interest in the dealership; and

(iii) (C) Operates the dealership under a plan to acquire full ownership of the dealership within a reasonable time and under reasonable terms and conditions;

~~(m)~~ (16) Unreasonably withhold consent to the sale, transfer, or exchange of the dealership to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state;

(n) (17) Fail to respond in writing to a request for consent to a sale, transfer, or exchange of a dealership within 60 days after receipt of a written application from the new motor vehicle dealer on the forms generally utilized by the manufacturer or distributor for such purpose and containing the information required therein. Failure to respond to the request within the 60 days is consent;

(o) (18) Unfairly prevent a new motor vehicle dealer from receiving reasonable compensation for the value of the new motor vehicle dealership;

(p) (19) Audit any motor vehicle dealer in this state for warranty parts or warranty service compensation, service compensation, service or sales incentives, manufacturer rebates, or other forms of sales incentive compensation more than 12 months after the claim for payment or reimbursement has been made by the automobile dealer. ~~No~~ A chargeback ~~may not~~ be made until the dealer has had notice and an opportunity to support the claim in question within 30 days of receiving notice of the chargeback. ~~No~~ An otherwise valid reimbursements claims may not be denied once properly submitted in accordance with ~~the~~ material and reasonable manufacturer's submission guidelines unless the factory can show that the claim was false or fraudulent or that the new motor vehicle dealer failed to reasonably substantiate the claim consistent with the manufacturer's written reasonable and material guidelines. ~~due to clerical error or omission~~ This subsection does not apply where a claim is fraudulent. In addition, the manufacturer or distributor is responsible for reimbursing the audited dealer for all documented copying, postage, and administrative and personnel costs reasonably incurred by the dealer during the audit. Any charges to a dealer as a result of the audit must be separately billed to the dealer;

(q) (20) Unreasonably restrict a dealer's ownership of a dealership through noncompetition covenants, site control, sublease, collateral pledge of lease, right of first refusal, option to purchase, or otherwise. A right of first refusal is created when:

(i) (A) A manufacturer has a contractual right of first refusal to acquire the new motor vehicle dealer's assets where the dealer

owner receives consideration, terms and conditions that are either the same as or better than those they have already contracted to receive under the proposed change of more than ~~fifty~~ 50 percent of the dealer's ownership;

~~(ii)~~ (B) The proposed change of the dealership's ownership or the transfer of the new vehicle dealer's assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one of the dealer's owners to one of the following:

~~(A)~~ (i) A designated family member of one or more of the dealer owners;

~~(B)~~ (ii) A manager employed by the dealer in the dealership during the previous five years and who is otherwise qualified as a dealer operator;

~~(C)~~ (iii) A partnership or corporation controlled by a designated family member of one of the dealers; or

~~(D)~~ (iv) A trust established or to be established for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards, or to provide for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or its principle owner or owners;

~~(i) for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards; or~~

~~(ii) to provide for the succession of the franchise agreement to designated family members or qualified management in the event of death or incapacity of the dealer or its principle owner or owners.~~

~~(iii)~~ (C) Upon exercising the right of first refusal by a manufacturer, it eliminates any requirement under its dealer agreement or other applicable provision of this statute that the manufacturer evaluate, process, or respond to the underlying proposed transfer by approving or rejecting the proposal, is not

subject to challenge as a rejection or denial of the proposed transfer by any party;

~~(iv)~~ (D) Except as otherwise provided in this ~~subsection~~ section, the manufacturer or distributor agrees to pay the reasonable expenses, including reasonable out-of-pocket professional fees which shall include, but not be limited to, accounting, legal, or appraisal services fees that are incurred by the proposed owner or transferee before the manufacturer's or distributor's exercise of its right of first refusal. Payment of the expenses and fees for professional services are not required if the dealer fails to submit an accounting of those expenses and fees within 20 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such a written account of fees and expenses may be requested by a manufacturer or distributor before exercising its right of first refusal;

~~(v)~~ (21) Except for experimental low-volume not-for-retail sale vehicles, cause warranty and recall repair work to be performed by any entity other than a new motor vehicle dealer;

~~(vi)~~ (22) Make any material or unreasonable change in any franchise agreement, including, but not limited to, the dealer's area of responsibility without giving the new motor vehicle dealer written notice by certified mail of the change at least 60 days prior to the effective date of the change, and shall include an explanation of the basis for the alteration. Upon written request from the dealer, this explanation shall include, but is not limited to, a reasonable and commercially acceptable copy of all information, data, evaluations, and methodology relied on or based its decision on, to propose the change to the dealer's area of responsibility. Any information or documentation provided by the manufacturer or distributor may be produced subject to a reasonable confidentiality agreement. At any time prior to the effective date of an alteration of a new motor vehicle dealer's area of responsibility and after the completion of any internal appeal process pursuant to the manufacturer's or distributor's policy manual, the motor vehicle dealer may petition the court to enjoin or prohibit the alteration within 30 days of receipt of the manufacturer's internal appeal process decision. The court shall enjoin or prohibit the alteration of

a motor vehicle dealer's area of responsibility unless the franchisor shows, by a preponderance of the evidence, that the alteration is reasonable and justifiable in light of market conditions. If a motor vehicle dealer petitions the court, no alteration to a motor vehicle dealer's area of responsibility shall become effective until a final determination by the court. If a new motor vehicle dealer's area of responsibility is altered, the manufacturer shall allow 24 months for the motor vehicle dealer to become sales effective prior to taking any action claiming a breach or nonperformance of the motor vehicle dealer's sales performance responsibilities;

~~(t)~~ (23) Fail to reimburse a new motor vehicle dealer, at the dealer's regular rate, or the full and actual cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the dealership if the provision of the loaner vehicle is required by the manufacturer;

~~(u)~~ (24) Compel a new motor vehicle dealer through its finance subsidiaries to agree to unreasonable operating requirements or to directly or indirectly terminate a franchise through the actions of a finance subsidiary of the franchisor. This subsection does not limit the right of a finance subsidiary to engage in business practices in accordance with the usage of trade in retail or wholesale vehicle financing;

~~(v)~~ (25) Discriminate directly or indirectly between dealers on vehicles of like grade, line, model, or quantity where the effect of the discrimination would substantially lessen competition;

~~(w)~~ (26) Use or employ any performance standard that is not fair and reasonable and based upon accurate and verifiable data made available to the dealer;

~~(x)~~ (27) ~~∅~~ Require or coerce any new motor vehicle dealer to sell, offer to sell, or sell exclusively extended service contract, maintenance plan, or similar product, including gap or other products, offered, endorsed, or sponsored by the manufacturer or distributor by the following means:

(i) (A) By an act of statement that the manufacturer or distributor will adversely impact the dealer, whether it is express or implied;

(ii) (B) By a contract made to the dealer on the condition that the dealer shall sell, offer to sell, or sell exclusively an extended service contract, extended maintenance plan, or similar product offered, endorsed, or sponsored by the manufacturer or distributor;

(iii) (C) By measuring the dealer's performance under the franchise agreement based on the sale of extended service contracts, extended maintenance plans, or similar products offered, endorsed, or sponsored by the manufacturer or distributor;

(iv) (D) By requiring the dealer to actively promote the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed, or sponsored by the manufacturer or distributor;

(v) (E) Nothing in this paragraph prohibits a manufacturer or distributor from providing incentive programs to a new vehicle dealer who makes the voluntary decision to offer to sell, sell, or sell exclusively an extended service contract, extended maintenance plan, or similar product offered, endorsed, or sponsored by the manufacturer or distributor;

(vi) (F) Require a dealer to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, factory branch, distributor, distributor branch, or one of its affiliates by agreement, program, incentive provision, or otherwise without making available to the dealer the option to obtain the goods or services of substantially similar quality and overall design from a vendor chosen by the dealer and approved by the manufacturer, factory branch, distributor, or distributor branch: *Provided*, That such approval may not be unreasonably withheld :*Provided, however*, That the dealer's option to select a vendor is not available if the manufacturer or distributor provides substantial reimbursement for the goods or services offered. Substantial reimbursement is equal to the difference in price of the goods and services from manufacturer's proposed vendor and the

motor vehicle dealer's selected vendor: *Provided further*, That the goods are not subject to the manufacturer or distributor's intellectual property or trademark rights, or trade dress usage guidelines.

(3) (c) A manufacturer or distributor, either directly or through any subsidiary, may not terminate, cancel, fail to renew, or discontinue any lease of the new motor vehicle dealer's established place of business except for a material breach of the lease.

(4) (d) Except as may otherwise be provided in this article, ~~no~~ a manufacturer or franchisor may sell, not directly or indirectly, sell, lease, exchange, or convey a new motor vehicle to a retail customer, offer for retail sale, lease, exchange, or other conveyance a new motor vehicle; or directly finance the retail sale, lease, exchange, or other conveyance of a new motor vehicle ~~any new motor vehicle~~ to a retail customer or consumer in this state, except through a new motor vehicle dealer holding a franchise for the line-make covering such new motor vehicle. This subsection does not apply to manufacturer or franchisor sales of new motor vehicles to charitable organizations, qualified vendors, or employees of the manufacturer or franchisor.

(5) (e) Except when prevented by an act of God, labor strike, transportation disruption outside the control of the manufacturer or time of war, a manufacturer or distributor may not refuse or fail to deliver, in reasonable quantities and within a reasonable time, to a dealer having a franchise agreement for the retail sale of any motor vehicle sold or distributed by the manufacturer, any new motor vehicle or parts or accessories to new motor vehicles as are covered by the franchise if the vehicles, parts and accessories are publicly advertised as being available for delivery or are actually being delivered.

(f) It is be unlawful for any manufacturer, factory branch, distributor, or distributor branch, when providing a new motor vehicle to a new motor vehicle dealer for offer, sale, or lease to the public, to fail to provide to the dealer a written disclosure that may be provided to a potential buyer or lessor of the new motor vehicle of each accessory or function of the vehicle that may be initiated,

updated, changed, or maintained by the manufacturer or distributor through over the air or remote means, and the charge to the customer for the initiation, update, change, or maintenance that is known at the time of sale. A manufacturer or distributor may comply with this subdivision by notifying the new motor vehicle dealer that the information is available on a website or by other digital means.

(g) A manufacturer or distributor shall not attempt to coerce, threaten, or take any act prejudicial against a new motor vehicle dealer arising from the retail price at which a new motor vehicle dealer sells a new motor vehicle.

(h) Notwithstanding the terms of any franchise or agreement, or the terms of any program or policy, a manufacturer or distributor may not do any of the following if it has a dealer agreement with any new motor vehicle dealer in this state and if the manufacturer or distributor permits retail customers the option of reserving the purchase or lease of a vehicle through a manufacturer or distributor reservation system:

(1) Fail to assign any retail vehicle reservation or request to purchase or lease received by the manufacturer or distributor from a resident of this state to the franchised dealer authorized to sell that make and model which is designated by the customer, or if none is designated, to its franchised dealer authorized to sell that make and model located in closest proximity to the customer's location: *Provided*, That if the customer does not purchase or lease the vehicle from that dealer within 10 days of the vehicle being received by the dealer, or if the customer requests that the transaction be assigned to another dealer, then the manufacturer or distributor may assign the transaction to another franchised dealer authorized to sell that make and model;

(2) Prohibit or unreasonably interfere with a new motor vehicle dealer negotiating the final purchase price of the vehicle with a retail customer that has reserved the purchase or lease through a manufacturer or distributor reservation system;

(3) Prohibit or unreasonably interfere with a new motor vehicle dealer offering and negotiating directly with the customer the terms of vehicle financing or leasing through all sources available to the dealer for the retail customer that has reserved the purchase or lease of a vehicle through a manufacturer or distributor reservation system;

(4) Prohibit or unreasonably interfere with a new motor vehicle dealer's ability to offer to sell or sell any service contract, extended warranty, vehicle maintenance contract, or guaranteed asset protection (GAP) agreement, or any other vehicle-related products and services offered by the dealer with a retail customer that has reserved to purchase or lease through a manufacturer or distributor reservation system: *Provided*, That a manufacturer, distributor, or captive finance source shall not be required to finance the product or service;

(5) Prohibit or unreasonably interfere with a new motor vehicle dealer directly negotiating the trade-in value the customer will receive, or prohibit the dealer from conducting an on-site inspection of the condition of a trade-in vehicle before the dealer becomes contractually obligated to accept the trade-in value to negotiated with a retail customer that has reserved to purchase or lease a vehicle through the manufacturer or distributor reservation system;

(6) Use a third party to accomplish what would otherwise be prohibited by this subdivision;

(7) Nothing contained in this subdivision shall:

(A) Require that a manufacturer or distributor allocate or supply additional or supplemental inventory to a franchised dealer located in this state in order to satisfy a retail customer's vehicle reservation or request submitted directly to the manufacturer or distributor as provided in this section;

(B) Apply to the generation of sales leads: *Provided*, That for purposes of this subdivision the term "sales leads" shall not include any reservation or request to purchase or lease a vehicle submitted

directly by a customer or potential customer to a manufacturer or distributor reservation system; or

(C) Apply to a reservation or request to purchase or lease a vehicle through the manufacturer or distributor received from the customer that is a resident of this state if the customer designates a dealer outside of this state to be assigned the reservation or request to purchase or lease or if the dealer in closest proximity to the customer's location is in another state and the manufacturer or distributor assigns the reservation or request to purchase or lease to that dealer.

(8) Notwithstanding the terms of any dealer agreement, or the terms of any manufacturer or distributor program or policy, a manufacturer or distributor may not, if it has a dealer agreement with any new motor vehicle dealer in this state, offer new motor vehicles through a subscription directly to a retail customer or consumer. However, this subsection is not intended to prevent a manufacturer or distributor from providing or offering new motor vehicles through a subscription program through a new motor vehicle dealer for retail sales to a customer.

(i) Notwithstanding the terms of any dealer agreement, or the terms of any manufacturer or distributor program or policy, a manufacturer or distributor may not, if it has a dealer agreement with any new motor vehicle dealer in this state, offer direct financing for the purchase, lease, or other conveyance of a motor vehicle to a retail customer. However, this subsection is not intended to prevent a manufacturer or distributor from providing or offering a financing program through a new motor vehicle dealer which is available for retail customers.

§17A-6A-11. ~~Where motor vehicle dealer deceased or incapacitated~~ Motor vehicle dealer successorship or change in executive management.

(1) Any designated family member of a ~~deceased or incapacitated~~ new motor vehicle dealer may succeed the dealer in the ownership or operation, or be a designated executive manager of the dealership under the existing dealer agreement if the

designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to, or be designated as the executive manager of, the dealership within 120 days after the dealer's death or incapacity or designation of a successor or executive manager, and agrees to be bound by all of the terms and conditions of the dealer agreement, and the designated family member meets the current criteria generally applied by the manufacturer or distributor in qualifying new motor vehicle dealers or executive managers. A manufacturer or distributor may refuse to honor the designation or change existing dealer agreement with the designated family member only for good cause. In determining whether good cause exists for refusing to honor the agreement, the manufacturer or distributor has the burden of proving that the designated successor is a person who is not of good moral character or does not meet the manufacturer's existing written, reasonable, and uniformly applied standards for business experience and financial qualifications. The designated family member will have a minimum of one year to satisfy that manufacturer's written and reasonable standards and financial qualifications for appointment as the dealer or executive manager ~~and principal~~.

(2) The manufacturer or distributor may request from a designated family member ~~such~~ any information or application personal and financial data as is reasonably necessary to determine whether the existing dealer agreement should be honored. The designated family member shall supply the personal and financial data promptly upon the request.

(3) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession or designation, the manufacturer or distributor may, within 45 days after receipt of the notice of the designated family member's intent to succeed the dealer in the ownership or the appointment of an executive manager in the operation of the dealership, or within forty-five days after the receipt of the requested personal and financial data, serve upon the designated family member notice of its refusal to approve the succession.

(4) The notice of the manufacturer or distributor provided in ~~subsection~~ subdivision (3) of this section shall state the specific

~~factual and legal grounds for the refusal to approve the succession or designation of an executive manager. the succession and that discontinuance of the agreement shall take effect not less than one hundred eighty days after the date the notice is served.~~

(5) If notice of refusal is not served within the ~~sixty~~ 45 days provided for in ~~subsection~~ subdivision (3) of this section, the dealer agreement continues in effect and is subject to termination only as otherwise permitted by this article.

(6) This section does not preclude a new motor vehicle dealer from designating any person as his or her successor by will or any other written instrument filed with the manufacturer or distributor, and if such an instrument is filed, it alone determines the succession rights to the management and operation of the dealership.

(7) If the manufacturer challenges the succession in ownership or executive manager designation, it maintains the burden of proof to show good cause by a preponderance of the evidence. If the person or new motor vehicle dealer seeking succession of ownership or executive manager designation files a civil action within 180 days of the manufacturer's refusal to approve or the one year qualifying period set forth in subdivision (1) of this section, whichever is longer, set forth in subsection (4) of this section, no action may be taken by the manufacturer contrary to the dealer agreement until such time as the civil action and any appeal has been exhausted: *Provided*, That when a motor vehicle dealer appeals a decision upholding a manufacturer's decision to not allow succession based upon the designated person's insolvency, or conviction of a crime punishable by imprisonment in excess of one year under the law which the designated person was convicted, the dealer agreement shall remain in effect pending exhaustion of all appeals only if the new motor vehicle dealer establishes that the public interest will not be harmed by keeping the dealer agreement in effect pending entry of final judgment after the appeal.

§17A-6A-12. Establishment and relocation or establishment of additional dealers.

(1) As used in this section, "relocate" and "relocation" do not include the relocation of a new motor vehicle dealer within four miles of its established place of business or if an existing new

motor vehicle dealer sells or transfers the dealership to a new owner and the successor new motor vehicle dealership owner relocates to a location within four miles of the seller's last open new motor vehicle dealership location. The relocation of a new motor vehicle dealer to a site within the area of sales responsibility assigned to that dealer by the manufacturing branch or distributor may not be within six air miles of another dealer of the same line-make.

(2) Before a manufacturer or distributor enters into a dealer agreement establishing or relocating a new motor vehicle dealer within a relevant market area where the same line-make is represented, the manufacturer or distributor shall give written notice to each new motor vehicle dealer of the same line-make in the relevant market area of its intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(3) Within 60 days after receiving the notice provided in subdivision (2) of this section, or within 60 days after the end of any appeal procedure provided by the manufacturer or distributor, a new motor vehicle dealer of the same line-make within the affected relevant market area may bring a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the establishing or relocating of the proposed new motor vehicle dealer. *Provided*, That a new motor vehicle dealer of the same line-make within the affected relevant market area shall not be permitted to bring such an action if the proposed relocation site would be further from the location of the new motor vehicle dealer of the same line-make than the location from which the dealership is being moved. Once an action has been filed, the manufacturer or distributor may not establish or relocate the proposed new motor vehicle dealer until the circuit court has rendered a decision on the matter. An action brought pursuant to this section shall be given precedence over all other civil matters on the court's docket. The manufacturer has the burden of proving that good cause exists for establishing or relocating a proposed new motor vehicle dealer.

(4) This section does not apply to the reopening in a relevant market area of a new motor vehicle dealer that has been closed within the preceding two years if the established place of business of the new motor vehicle dealer is within four air miles of the established place of business of the closed or sold new motor vehicle dealer.

(5) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line-make, the court shall take into consideration the existing circumstances, including, but not limited to, the following:

~~(a)~~ (A) The permanency and amount of the investment, including any obligations incurred by the dealer in making the investment;

~~(b)~~ (B) The effect on the retail new motor vehicle business and the consuming public in the relevant market area;

~~(c)~~ (C) Whether it is injurious or beneficial to the public welfare;

~~(d)~~ (D) Whether the new motor vehicle dealers of the same line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line-make in the market area, including the adequacy of motor vehicle sales and qualified service personnel;

~~(e)~~ (E) Whether the establishment or relocation of the new motor vehicle dealer would promote competition;

~~(f)~~ (F) The growth or decline of the population and the number of new motor vehicle registrations in the relevant market area; and

~~(g)~~ (G) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

§17A-6A-13. Obligations regarding warranties.

(1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed

in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service required of the dealer by the manufacturer or distributor. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, diagnostic time as applicable, work and service, and the time allowance for the performance of the work, diagnostic time as applicable, and service in a manner in compliance with ~~section eight a of this article~~. §17A-6A-8a of this code.

(2) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, ~~section eight a of this article~~ §17A-6A-8a of this code shall govern: *Provided*, That in the case of a dealer of new motorcycles, motorboat trailers, all-terrain vehicles, utility terrain vehicles, and snowmobiles, the compensation of a dealer for warranty parts is the greater of the dealer's cost of acquiring the part plus 30 percent or the manufacturer's suggested retail price: *Provided, however*, That in the case of a dealer of travel trailers, fold-down camping trailers, and motorhomes, the compensation of a dealer's cost for warranty parts is not less than the dealer's cost of acquiring the part plus 20 percent.

(3) A manufacturer or distributor may not do any of the following:

(a) (A) Fail to perform any warranty obligation;

(b) (B) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or

(c) (C) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall or the

manufacturer's or distributor's warranty obligation as provided under §17A-6A-8a of this code.

(4) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within 30 days after their approval. All claims shall be either approved or disapproved by the manufacturer or distributor within 30 days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within 30 days after the receipt of the form is considered to be approved and payment shall be made within 30 days. The manufacturer has the right to initiate an audit of a claim within twelve months after payment and to charge back to the new motor vehicle dealer the amount of any false, fraudulent, or unsubstantiated claim, subject to the requirements of ~~section eight a of this article.~~ §17A-6A-8a of this code.

(5) The manufacturer shall accept the return of any new and unused part, component, or accessory that was ordered by the dealer, and shall reimburse the dealer for the full cost charged to the dealer for the part, component, or accessory if the dealer returns the part and makes a claim for the return of the part within one year of the dealer's receipt of the part, component, or accessory and provides reasonable documentation, to include any changed part numbers to match new part numbers, provided that the part was ordered for a warranty repair.

§17A-6A-15. Indemnity.

Notwithstanding the terms of any dealer agreement, a manufacturer or distributor shall indemnify and hold harmless its dealers for any reasonable expenses incurred, including damages, court costs, and attorney's fees, arising out of complaints, claims, or actions to the extent such complaints, claims, or actions relate to the manufacture, assembly, or design of a new motor vehicle, manufacturer's warranty obligations excluding dealer negligence, or other functions by the manufacturer or distributor beyond the control of the dealer, including, without limitation, the selection by the manufacturer or distributor of parts or components for the

vehicle, and any damages to merchandise occurring prior to acceptance of the vehicle by the dealer to the dealer if the carrier is designated by the manufacturer or distributor, if the new motor vehicle dealer gives timely notice to the manufacturer or distributor of the complaint, claim, or action.

§17A-6A-15a. Dealer data, obligation of manufacturer, vendors, suppliers and others; consent to access dealership information; unlawful activities; indemnification of dealer.

(a) Except as expressly authorized in this section, a manufacturer or distributor cannot require a motor vehicle dealer to provide its customer information to the manufacturer or distributor unless necessary for the sale and delivery of a new motor vehicle to a consumer, to validate and pay consumer or dealer incentives, for manufacturer's marketing purposes, for evaluation of dealer performance, for analytics, or to support claims submitted by the new motor vehicle dealer for reimbursement for warranty parts or repairs. Nothing in this section shall limit the manufacturer's ability to require or use customer information to satisfy any safety or recall notice obligation or other legal obligation.

(b) The dealer is only required to provide the customer information to the extent lawfully permissible, and to the extent the requested information relates solely to specific program requirements or goals associated with the manufacturer's or distributor's own vehicle makes. A manufacturer, factory branch, distributor, distributor branch, dealer, ~~management computer system~~ data systems vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch or dealer or ~~management computer system~~ data systems vendor may not prohibit a dealer from providing a means to regularly and continually monitor, or conduct an audit of, the specific data accessed from or written to the dealer's ~~computer system~~ data systems and from complying with applicable state and federal laws and any rules or regulations promulgated thereunder. These provisions do not impose an obligation on a manufacturer, factory branch, distributor, distributor branch, dealer, ~~management computer~~ vendor, or any third party acting on behalf of any

manufacturer, factory branch, distributor, distributor branch, dealer, ~~or management computer system data systems~~ vendor to provide that capability.

(c) A manufacturer, factory branch, distributor, distributor branch, dealer, ~~management computer system data systems~~ vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch or dealer, or ~~management computer system data systems~~ vendor, may not provide access to customer or dealership information maintained in a dealer ~~management computer system data systems~~ used by a motor vehicle dealer located in this state, other than a subsidiary or affiliate of the manufacturer factory branch, distributor or distributor branch without first obtaining the dealer's prior express written consent and agreement, revocable by the dealer upon 10 business days written notice, to provide the access.

(d) Upon a written request from a motor vehicle dealer, the manufacturer, factory branch, distributor, distributor branch, dealer, ~~or management computer system data systems~~ vendor, or any third party acting on behalf of or through any manufacturer, factory branch, distributor, distributor branch or dealer ~~management computer system data systems~~ vendor shall provide to the dealer a written list of all specific third parties other than a subsidiary or affiliate of the manufacturer, factory branch, distributor or distributor branch to whom any data obtained from the dealer has actually been provided within the 12 month period prior to date of dealer's written request. If requested by the dealer, the list shall further describe the scope and specific fields of the data provided. The consent does not change the person's obligations to comply with the terms of this section and any additional state or federal laws, and any rules or regulations promulgated thereunder, applicable to them with respect to the access.

~~(d)~~ (e) A manufacturer, factory branch, distributor, distributor branch, dealer, ~~management computer system data systems~~ vendor, or any third party acting on behalf of or through any dealer, ~~or management computer system data systems~~ vendor, having electronic access to customer or motor vehicle dealership data in a

dealership ~~data management computer~~ system used by a motor vehicle dealer located in this state shall provide notice in a reasonable timely manner to the dealer of any security breach of dealership or customer data obtained through the access.

~~(e)~~ (f) A manufacturer or distributor or a third party acting on behalf of a manufacturer or distributor may not require a dealer to provide any customer information: ~~(a)~~ Of Any individual who is not a customer of such manufacturer's or distributor's own vehicle makes; ~~(b)~~ for any purpose other than for reasonable marketing purposes on behalf of that dealer, market research, consumer surveys, market analysis, or dealership performance analysis; ~~(c)~~ if sharing that information would not be permissible under local, state, or federal law; ~~(d)~~ except to the extent the requested information relates solely to specific program requirements or goals associated with such manufacturer's or distributor's own vehicle makes; ~~(e)~~ that is general customer information or other information related to the dealer, ~~or~~ (f) unless the requested information can be provided in a manner consistent with dealer's current privacy policies and Gramm-Leach-Bliley Act privacy notice, ~~and no~~ a dealer may not be required to amend that notice to accommodate data sharing with the manufacturer or distributor.

(g) As used in this section:

(1) "Authorized Integrator" means any third party with whom a dealer has entered into a written contract to perform a specific function for a dealer that permits the third party to access protected dealer data and/or to write data to a dealer data system to carry out the specified function (the "authorized integrator contract").

(2) "Dealer" means a new motor vehicle dealer as defined by §17A-6A-3(11) of this code and any authorized dealer personnel.

(3) "Dealer data system" means any software, hardware, or firmware used by a dealer in its business operations to store, process, or maintain protected dealer data.

(4) "Dealer data systems vendor" means any dealer management system provider, customer relationship management

system provider, or other vendor that permissibly stores protected dealer data pursuant to a written contract with the dealer ("dealer data systems vendor contract").

(5) "Data access overcharge" means any charge to a dealer or authorized integrator for integration beyond reimbursement for any direct costs incurred by the dealer data systems vendor for such Integration. If a dealer data systems vendor chooses to seek reimbursement from any dealer or authorized integrator for such direct costs, the direct costs must be disclosed to the dealer, and justified by documentary evidence of the costs associated with such Integration or it will be considered a data access overcharge.

(6) "Integration" means access to protected dealer data in a dealer's dealer data system by an authorized integrator, or an authorized integrator writing data to a dealer's dealer data system. Integration does not require access to any copyrighted material but must allow for access to all protected dealer data. Integration may be accomplished by any commercially reasonable means that do not violate this section, but all dealer data vendors must include an option to integrate via a secure open application programming interface (API), which must be made available to dealers and authorized integrators. In the event that APIs are no longer the reasonable commercial or technical standard for secure data integration, a similar open access integration method may be provided, to the extent it provides the same or better secure access to dealers and authorized Integrators as an API.

(7) "Prior express written consent" means written consent provided by the dealer that is contained in a document separate from any other consent, contract, franchise agreement, or other writing that specifically outlines the dealer's consent for the authorized Integrator to obtain the dealer data, as well as the scope and duration of that consent. This consent may be unilaterally revoked by the dealer: (A) without cause, upon 30 days' notice, and (B) immediately for cause.

(8) "Protected dealer data" means any of the following data that is stored in a dealer data system:

(A) Personal, financial, or other data pertaining to a consumer, or a consumer's vehicle that is provided to a dealer by a consumer or otherwise obtained by a dealer: *Provided*, That this subdivision does not give a new motor vehicle dealer any ownership or rights to share or use the motor vehicle diagnostic data beyond what is necessary to fulfill a dealer's obligation to provide warranty, repair, or service work to its customers; or

(B) Any other data regarding a dealer's business operations in that dealer's dealer data system:

(9) "Secure open API" means an application programming interface that allows authorized integrators to integrate with dealer data systems remotely and securely. The APIs must be "open" in that all required information to Integrate via the API (software development toolkit and any other necessary technical or other information) must be made available by a dealer data systems vendor to any authorized integrator upon request by a dealer. The secure open API must include all relevant endpoints to allow for access to all protected dealer data, or as are needed to integrate with protected dealer data, and must provide granularity and control necessary for dealers and authorized integrators to Integrate the data necessary under the authorized integrator contract. "Open" does not mean that the API must be available publicly or at no cost to an authorized integrator, however no data access overcharge may be assessed in connection with a secure open API.

(10) "Third party" includes service providers, vendors, including dealer data systems vendors and authorized integrators, and any other individual or entity other than the dealer. Third party does not include any manufacturer, factory branch, distributor, distributor branch or governmental entity acting pursuant to federal, state, or local law, or any third party acting pursuant to a valid court order.

(h) Prohibited Action

1. A third party may not:

(A) Access, share, sell, copy, use, or transmit protected dealer data from a dealer data system without the express written consent of a dealer;

(B) Take any action, by contract, by technical means, or otherwise, that would prohibit or limit a dealer's ability to protect, store, copy, share, or use any protected dealer data. This includes, but is not limited to:

(i) Imposing any data access overcharges or other restrictions of any kind on the dealer or any authorized integrator for integration;

(ii) Prohibiting any third party that the dealer has identified as one of its authorized integrators from integrating with that dealer's dealer data system;

(iii) Place unreasonable restrictions on integration by any authorized integrator or other third party that the dealer wishes to be an authorized integrator. Examples of unreasonable restrictions include, but are not limited to:

(I) Unreasonable restrictions on the scope or nature of the data shared with an authorized integrator;

(II) Unreasonable restrictions on the ability of the authorized integrator to write data to a dealer data system;

(III) Unreasonable restrictions or conditions on a third party accessing or sharing protected dealer data, or writing data to a dealer data system; and

(IV) Requiring unreasonable access to sensitive, competitive, or other confidential business information of a third party as a condition for access to protected dealer data or sharing protected dealer data with an authorized integrator;

(iv) Prohibiting or limiting a dealer's ability to store, copy, securely share or use protected dealer data outside the dealer data system in any manner and for any reason; or

(v) Permitting access to or accessing protected dealer data without express written consent by the dealer.

(i) Nothing in this section shall be interpreted to prevent any dealer or third party from discharging its obligations as a service provider under an agreement or otherwise under federal, state, or local law to protect and secure protected dealer data, or to otherwise limit those responsibilities.

(j) A dealer data systems vendor or authorized integrator is not responsible for any action taken directly by the dealer, or for any action it takes in appropriately following the written instructions of the dealer, to the extent that such action prevents it from meeting any legal obligation regarding the protection of protected dealer data or results in any liability as a consequence of such actions by the dealer.

(k) A dealer is not responsible for any action taken directly by any of its dealer data systems vendors or authorized integrators, or for any action it takes in appropriately following the written instructions of any of its dealer data systems vendors or authorized integrators, to the extent that such action prevents it from meeting any legal obligation regarding the protection of protected dealer data or results in any liability as a consequence of such actions by the dealer data systems vendor or authorized integrator.

(l) Additional responsibilities and restrictions

(1) All dealer data systems vendors must adopt and make available a standardized Integration framework (use of the STAR Standards or a standard compatible with the STAR standards shall be deemed to be in compliance with this requirement) and allow for integration via secure open APIs to authorized integrators. In the event that APIs are no longer the reasonable commercial or technical standard for secure data integration, a similar open access integration method may be provided, to the extent it provides the same or better secure Integration to dealers and authorized integrators as a secure open API.

(2) All dealer data systems vendors and authorized integrators:

(A) May Integrate, or otherwise access, use, store, or share protected dealer data, only as outlined in, and to the extent permitted by their dealer data systems vendor contract or authorized integrator contract;

(B) Must make any dealer data systems vendor contract or authorized integrator contract terminable upon no more than 90 days notice from the dealer;

(C) Must, upon notice of the dealer's intent to terminate its dealer data systems vendor contract or authorized integrator contract, in order to prevent any risk of consumer harm or inconvenience, work to ensure a secure transition of all protected dealer data to a successor dealer data systems vendor or authorized integrator. This includes, but is not limited to:

(i) Providing unrestricted access to all protected dealer data and all other data stored in the dealer data system in a commercially reasonable time and format that a successor dealer data systems vendor or authorized integrator can access and use; and

(ii) Deleting or returning to the dealer all protected dealer data prior to termination of the contract pursuant to any written directions of the dealer;

(iii) Providing a dealer, upon request, with a listing of all entities with whom it is sharing or has shared protected dealer data, or with whom it has allowed access to protected dealer data; and

(iv) Allowing a dealer to audit the dealer data systems vendor or authorized integrator's access to and use of any protected dealer data.

(†) (m) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, every manufacturer, factory branch, distributor, distributor branch, dealer, ~~system~~ data systems vendor, or any third party acting on behalf of or through a manufacturer, factory branch, distributor, distributor branch or dealer, ~~management-computer system~~ data systems vendor shall fully indemnify, defend, and hold harmless any dealer or manufacturer, factory branch, distributor or

distributor branch from all damages, attorney fees, and costs, other costs and expenses incurred by the dealer from complaints, claims, or actions arising out of manufacturer's, factory's branch, distributor's, distributor's branch, dealer ~~management computer system~~ data systems vendors, or any third party for its willful, negligent, or impermissible use or disclosure of dealer data or customer data or other sensitive information in the dealer's data computer system. The indemnification includes, but is not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs, costs related to the disclosure of security breaches, and attorneys' fees arising out of complaints, claims, civil, or administrative actions.

(j) (n) The rights conferred on motor vehicle dealers in this section are not waivable and may not be reduced or otherwise modified by any contract or agreement.

~~(k)~~ (o) This section applies to contracts entered into after the effective date of this section.

(p) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(q) A manufacturer, factory branch, distributor, distributor branch, dealer, data management computer systems vendor, or any third party acting on behalf of itself, or through a manufacturer, factory branch, distributor, distributor branch, or dealer data management computer system vendor shall not take an act prejudicial against a new motor vehicle dealer because of a new motor vehicle dealer exercising its rights under this section.

§17A-6A-15c. Manufacturer performance standards; uniform application; prohibited practices.

A manufacturer may not require dealer adherence to a performance standard or standards which are not applied uniformly

to other similarly situated dealers. In addition to any other requirements of the law, the following shall apply:

(1) A performance standard, sales objective, or program for measuring dealer performance ~~that may have a material effect on a dealer, including the dealer's right to payment under any incentive or reimbursement program and the application of the standard, sales objective, or program~~ used by a manufacturer, distributor, or factory branch in determining a dealer's compliance with the dealer agreement shall be reasonable and based on accurate information, including, but not limited to, the dealer's specific local market circumstances and geographical characteristics. A manufacturer, distributor, or factory branch may not impose unreasonable restrictions on a dealer relative to compliance with a sales performance standard or sales objective.

(2) Upon written request from a dealer participating in the program, the manufacturer shall provide in writing the dealer's performance requirement or sales goal or objective, which shall include a reasonable and general explanation of the methodology, criteria, and calculations used.

(3) A manufacturer shall allocate a reasonable and appropriate supply of vehicles to assist the dealer in achieving any performance standards established by the manufacturer and distributor.

(4) The manufacturer or distributor has the burden of proving by a preponderance of the evidence that the performance standard, sales objective, or program for measuring dealership performance complies with this article.

§17A-6A-18. West Virginia law to apply.

Notwithstanding the terms, provisions, or requirements of any franchise agreement, contract, or other agreement of any kind between a new motor vehicle dealer and a manufacturer or distributor captive finance source, dealer management system, or any subsidiary, affiliate, or partner of a manufacturer or distributor, or captive finance source or dealer management system, the provisions of this code apply to all such agreements and contracts

listed in this section or governed by the article. Any provisions in the agreements and contracts which violate the terms of this section are null and void.

The bill (Eng. Com. Sub. for H. B. 4560), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4570, To allow veterinary telehealth in West Virginia with out of state providers.

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

Eng. Com. Sub. for House Bill 4644, Prohibiting the restriction, regulation, use or administration of lawn care and pest care products.

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

Eng. Com. Sub. for House Bill 4712, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

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

Eng. Com. Sub. for House Bill 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

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

Eng. House Bill 4842, Relating to obscene matter to minors.

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 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.

(a) Any person who, knowingly and willfully, sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view, or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony.

(b) Any person who violates the provisions of subsection (a) of this section when the conduct involves fifty or fewer images shall, upon conviction, be imprisoned in a state correctional facility for not more than two years or fined not more than \$2,000 or both.

(c) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than fifty but fewer than six hundred images shall, upon conviction, be imprisoned in a state correctional facility for not less than two nor more than ~~ten~~ 10 years or fined not more than \$5,000, or both.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section any person who violates the provisions of subsection (a) of this section when the conduct involves ~~six hundred~~ 600 or

more images or depicts violence against a child or a child engaging in bestiality shall, upon conviction, be imprisoned in a state correctional facility for not less than five nor more than ~~fifteen~~ 15 years or fined not more than \$25,000 or both.

(e) For purposes of this section each video clip, movie or similar recording of five minutes or less shall constitute ~~seventy-five~~ 75 images. A video clip, movie, or similar recording of a duration longer than five minutes shall be deemed to constitute ~~seventy-five~~ 75 images for every two minutes in length if it exceeds five minutes.

(f) The provisions of this section are inapplicable to:

(1) Law enforcement personnel while acting in the performance of their official duties;

(2) Prosecuting attorneys while acting in the performance of their official duties;

(3) Attorneys representing persons charged with a violation of this article or a substantially similar federal law while acting in the performance of their official duties;

(4) Judges and magistrates while acting in the performance of their official duties;

(5) Jurors while acting in the performance of their official duties ; and

(6) Support personnel for the persons listed in subdivisions (1) through (4) of this subsection in the performance of their professional, employment, and fact-finding duties.

(g) The Supreme Court of Appeals is hereby requested to promulgate such rules, protocols, and forms as are necessary to regulate access to, use, and handling of materials depicting minors engaging in sexually explicit conduct with due consideration given to the privacy rights of victims and the due process rights of defendants in judicial proceedings .

On motion of Senator Weld, the following amendment to the bill (Eng. H. B. 4842) was next reported by the Clerk and adopted:

On page one, after the enacting clause, by inserting the following:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-9. Indecent exposure.

(a) A person is guilty of indecent exposure when such person intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm: *Provided*, That it is not considered indecent exposure for a mother to breast feed a child in any location, public or private.

(b) Except as provided in subsection (c), any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than ninety days, or fined not more than \$250, or both fined and confined.

(c) Any person who violates the provisions of subsection (a) of this section by intentionally exposing himself or herself to another person and the exposure was done for the purpose of sexual gratification, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than twelve months, or both. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail for not less than thirty days nor more than twelve months. For a third or subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility for not less than one year nor more than five years.

(d) Notwithstanding the provisions of subsection (a), (b), and (c) of this section, any person who intentionally exposes his or her sex organs to another for purposes of sexual gratification knowing or having any reason to know that the person to whom he or she exposed himself or herself was 16 years of age or younger, is guilty of a felony, and upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years or both fined and imprisoned.

The bill (Eng. H. B. 4842), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

Senate Bill 731, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

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

Senate Bill 732, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

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

Senate Bill 733, Supplementing and amending appropriation to Executive, Governor's Office.

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

Eng. Com. Sub. for House Bill 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

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

Eng. Com. Sub. for House Bill 2798, Relating to requiring the Health Department to mandate mucopolysaccharidosis type 1 (MPS1) test for newborn babies, to be known as Embie's Law.

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

At the request of Senator Maroney, unanimous consent being granted, the bill was referred to the Committee on Finance.

Eng. Com. Sub. for House Bill 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

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

Eng. House Bill 3082, Stabilizing funding sources for the DEP Division of Air Quality.

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

Eng. Com. Sub. for House Bill 3231, Public Utilities not required to pay interest on security deposits.

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

Eng. Com. Sub. for House Bill 4008, Relating to Higher Education Policy Commission funding formula.

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

Eng. Com. Sub. for House Bill 4021, Relating to the Medical Student Loan Program.

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

Eng. Com. Sub. for House Bill 4059, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

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

Eng. Com. Sub. for House Bill 4087, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

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

Eng. House Bill 4110, Relating to staffing levels at multi-county vocational centers.

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

Eng. Com. Sub. for House Bill 4112, Provide consumers a choice for pharmacy services.

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

Eng. Com. Sub. for House Bill 4285, Relating to real estate appraiser licensing board requirements.

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

Eng. House Bill 4288, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

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

Eng. Com. Sub. for House Bill 4336, Providing for the valuation of natural resources property.

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

Eng. House Bill 4355, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

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

Eng. Com. Sub. for House Bill 4389, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

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

Eng. House Bill 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

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

Eng. Com. Sub. for House Bill 4488, Relating to coal mining and changing fees for permitting actions.

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

Eng. Com. Sub. for House Bill 4492, Creating the Division of Multimodal Transportation.

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

Eng. House Bill 4496, Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested.

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

Eng. Com. Sub. for House Bill 4497, Extending the regional jail per diem through July 1, 2023.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4559, Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4563, Provide for a license plate for auto mechanics.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. House Bill 4566, Creating the Economic Enhancement Grant Fund.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. House Bill 4568, To allow phased rehabilitations of certified historic structures.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4629, Relating to procedures for certain actions against the state.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4634, Relating to occupational licensing or other authorization to practice.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4636, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4662, Relating to licensure of Head Start facilities in this state.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. House Bill 4743, Relating to security and surveillance requirements of medical cannabis organization facilities.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4787, Creating the Highly Automated Motor Vehicle Act.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. Com. Sub. for House Bill 4826, Relating to e-sports.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. House Bill 4829, Modifying definitions of certain school cafeteria personnel.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Eng. House Bill 4848, Relating to nonintoxicating beer, wine and liquor licenses.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 25, Firefighter Marvin Layton Hughes Memorial Bridge.

Senate Concurrent Resolution 32, Curtis "Pap" and Millie "Mammie" Asbury Memorial Bridge.

Senate Concurrent Resolution 41, Henry Preston Hickman Memorial Bridge.

Senate Concurrent Resolution 51, Deputy Kenneth "Kenny" Ward Love, Sheriff Elvin Eugene "Pete" Wedge, and Jailer Ernest Ray "Ernie" Hesson Memorial Bridge.

House Concurrent Resolution 13, The Doctor Enrique Aguilar Memorial Bridge.

House Concurrent Resolution 17, Daniel Okey Cunningham Memorial Bridge.

House Concurrent Resolution 35, David Allen Drake, Sr. Memorial Bridge.

House Concurrent Resolution 36, John Calvin "J.C." Baker Memorial Bridge.

House Concurrent Resolution 61, Timothy Wayne Farley Memorial Bridge.

And,

House Concurrent Resolution 82, Alleen Ledson Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 25, 32, 41, and 51 and H. C. R. 13, 17, 35, 36, 61, and 82) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator 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 4373, To exclude fentanyl test strips from the definition of drug paraphernalia.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4373 and 4511) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4433, Providing that retirement benefits are not subject to execution.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4433) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

(Senator Weld in the Chair.)

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

House Concurrent Resolution 25, SP5 Terry Lee McClanahan Memorial Bridge.

And has amended same.

House Concurrent Resolution 26, Charleston Police Officer Cassie Johnson - Fallen Heroes Memorial Bridge.

And has amended same.

House Concurrent Resolution 38, "Dale Shaheen and George H. Hooker Memorial Bridge".

And has amended same.

House Concurrent Resolution 70, Calvin H. Shifflett Memorial Bridge.

And has amended same.

House Concurrent Resolution 74, Judge Les Fury Memorial Bridge.

And has amended same.

And,

House Concurrent Resolution 83, U.S. Army SGT Charles L. Toppings Memorial Road.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 25, 26, 38, 70, 74, and 83) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The following amendments to the resolutions, from the Committee on Rules, were reported by the Clerk, considered simultaneously, and adopted:

House Concurrent Resolution 25, SP5 Terry Lee McClanahan Memorial Bridge.

On page two, in the Resolved clause, line twenty-eight, by striking out the word "SP5" and inserting in lieu thereof the words "U.S. Army SP5";

On page two, in the first Further Resolved clause, line thirty-one, by striking out the word "SP5" and inserting in lieu thereof the words "U.S. Army SP5";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 20-061/00-016.01 (20A184), (38.23939, -81.5576) locally known as Lens Creek Temporary Bridge, carrying WV 61 over Lens Creek in Kanawha County, the "U.S. Army SP5 Terry Lee McClanahan Memorial Bridge".

House Concurrent Resolution 26, Charleston Police Officer Cassie Johnson - Fallen Heroes Memorial Bridge.

On page two, in the Resolved clause, lines forty-one and forty-two, by striking out the words "-Fallen Heroes";

On page two, in the second Further Resolved clause, lines forty-four and forty-five, by striking the words "-Fallen Heroes";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number: 20-060/00-005.59 (WB) (20A336), (38.35826,-81.63989) locally known as US 60 Washington Street Bridge, carrying US 60 over Elk River in Kanawha county, the "Charleston Police Officer Cassie Johnson Memorial Bridge".

House Concurrent Resolution 38, "Dale Shaheen and George H. Hooker Memorial Bridge".

On page two, in the fifteenth Whereas clause, line thirty-four, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

On page two, in the Resolved clause, lines thirty-seven and thirty-eight, by striking out the words "23-44-9.12 on Route 44 in Logan County, West Virginia, the "Warrant" and inserting in lieu thereof the words "23-044/00-009.12 () (23A109), (37.75907,-81.99690) locally known as Warrant Officer Dale Shaheen Memorial Bridge, carrying WV 44 over Island Creek in Logan County, West Virginia, the "U.S. Army Warrant";

On page two, in the first Further Resolved Clause, line forty-two, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name a bridge bearing bridge number 23-044/00-009.12 () (23A109), (37.75907,-81.99690) locally known as Warrant Officer Dale Shaheen Memorial Bridge, carrying WV 44 over Island Creek in Logan County, West Virginia, the "U.S. Army Warrant Officer Dale Shaheen and U. S. Army Pvt George H. Hooker Memorial Bridge".

House Concurrent Resolution 70, Calvin H. Shifflett Memorial Bridge.

On page two, in the Resolved clause, line thirty-three, by striking out the words "Calvin H. Shifflett" and inserting in lieu thereof the words "U.S. Army Private Calvin H. Shifflett";

On page two, in the first Further Resolved clause, line thirty-five, by striking out the words "Calvin H. Shifflett" and inserting in lieu thereof the words "U.S. Army Private Calvin H. Shifflett";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 42-022/00-014.01 () (42A251) locally known as Bemis Truss, carrying CR 22 over Shavers Fork Cheat River in Randolph County, the "U.S. Army Private Calvin H. Shifflett Memorial Bridge".

House Concurrent Resolution 74, Judge Les Fury Memorial Bridge.

On page two, in the Resolved clause, line sixteen, by striking out the word "Judge" and inserting in lieu thereof the words "U.S. Army Captain";

On page two, in the first Further Resolved clause, line eighteen, by striking out the word "Judge" and inserting in lieu thereof the words "U.S. Army Captain";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 21-033/00-018.34 () (21A215), locally known as Hardees Boxbeam, carrying US Route 33 over Stonecoal Creek in Lewis County, the "U.S. Army Captain Les Fury Memorial Bridge".

House Concurrent Resolution 83, U.S. Army SGT Charles L. Toppings Memorial Road.

On page two, in the Resolved clause, lines twenty-seven through twenty-nine, by striking out the words "a portion of County Route 30/1, beginning at (38.239066), (-82.192876) and ending at (38.239066), (-82.200978), locally known as Sheridan Road, in Lincoln County, the "U.S. Army SGT Charles L. Toppings Memorial Road"" and inserting in lieu thereof the words "bridge number 22-026/00-000.20 () (22A145), (38.25506,-82.17864) locally known as Onemile Creek Box Beam, carrying CR 26 over Onemile Creek in Lincoln County, the "U.S. Army SGT Charles L. Toppings Memorial Bridge"";

On page two, in the first Further Resolved clause, lines thirty-two and thirty-three, by striking out the words "portion of road as the "U.S. Army SGT Charles L. Toppings Memorial Road"" and inserting in lieu thereof the words "bridge as the "U.S. Army SGT Charles L. Toppings Memorial Bridge"";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 22-026/00-000.20 () (22A145), (38.25506,-82.17864) locally known as Onemile Creek Box Beam, carrying CR 26 over Onemile Creek in Lincoln County, the "U.S. Army SGT Charles L. Toppings Memorial Road".

The question being on the adoption of the resolutions, as amended, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 6:20 p.m., the Senate adjourned until tomorrow, Thursday, March 10, 2022, at 11 a.m.

THURSDAY, MARCH 10, 2022

The Senate met at 11:19 a.m.

(Senator Blair, Mr. President, in the Chair.)

Prayer was offered by the Honorable Stephen Baldwin, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mike Caputo, a senator from the thirteenth district.

Kate Boytek of Logan, West Virginia, proceeded in the singing of "Amazing Grace".

Pending the reading of the Journal of Wednesday, March 9, 2022,

At the request of Senator Grady, 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, unanimous consent being granted, the Senate proceeded to the consideration of

Senate Resolution 54, Congratulating Fairmont Senior High School Polar Bears football team for winning 2021 Class AA state championship.

On unfinished business, coming up out of regular order, was reported by the Clerk.

At the request of Senator Caputo, 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 Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 54) adopted.

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 135, Relating to acquisition and disposition of property by urban development authority.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually.

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:

On page 6, line 121, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The secretary shall annually allocate Child Protective Services workers by districts of the Bureau for Social Services and report the allocation process to the Legislative Oversight Commission on Health and Human Resources Accountability by July 1 each year."

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 274, 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 274) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (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. 274) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 440, Establishing Uniform Commercial Real Estate Receivership Act.

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 470, Relating generally to health care decisions.

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 508, Requiring certain attire for deer hunters with muzzleloaders.

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 535, Providing for revocation of school personnel certification or licensure in certain circumstances.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 591, Relating to process for filling vacancies in state Legislature.

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 595, Relating to Dangerousness Assessment Advisory Board.

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 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 29, Nitro WW I Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 37, Harrison County Veterans Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 38, Cox Brothers' Veteran Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 45, US Army CPL John D. Doyle, Sr. Memorial Road.

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, to take effect from passage, of

Eng. Com. Sub. for House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for House Bill 4003—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-2-10, relating generally to the ownership and commercial benefit of substances removed from waters of the state by the treatment of mine drainage; restating public policies concerning the maintenance of reasonable standards of purity and quality of the waters of the state consistent with public health and the protection of all forms of life; providing for legislative findings, intent, and purpose, including that treatment of mine drainage

reduces environmental harm by reducing toxic substances and pollution in the waters of the state, that such treatment may produce valuable concentrations of materials which may be utilized for commercial gain, and that said materials are part of the water; stating the legislative intent of fulling the state's obligations to maintain reasonable standards of purity and quality of the waters of the state by encouraging investments into the treatment of mine drainage; providing that all chemical compounds, elements, and other potentially toxic materials found within the waters of this state and derived from the treatment of mine drainage which have economic value may be used, sold, or transferred by the Department of Environmental Protection or its designee for commercial gain and benefit; providing that all funds received by said department shall be deposited and used at the discretion of the secretary into already established environmental funds; providing that all chemical compounds, elements, and other potentially toxic materials found within the waters of this state and derived from the treatment of mine drainage which have economic value may be used, sold, or transferred by any party who successfully removes the same from the waters of this state for commercial gain and benefit; providing for the protection of existing and future contracts; and providing a severability clause.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 4003, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4003) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect from passage, of

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

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, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for House Bill 4380, Relating to transportation of athletic teams.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sybolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4380) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. Com. Sub. for House Bill 4406, To establish the West Virginia Military Hall of Fame.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect from passage, of

Eng. Com. Sub. for House Bill 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect from passage, of

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

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 97—Requesting the Division of Highways name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the "U. S. Army Air Corps Private Albert J. Sutphin Memorial Highway".

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 99—Requesting the Division of Highways name a bridge bearing the Bridge Number: 20-N14/80-000.1 (20A928), (38.36406,-81.69170) locally known as CENTRAL AVENUE OVERPASS, carrying City N14/80 over CSX RR & FIRST AVENUE in Kanawha County," as the "Lt. Col. Mitchell M. Mickel Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

Executive Communications

The Clerk then presented the following communications from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

March 9, 2022

The Honorable Lee Cassis, Clerk
West Virginia Senate
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Senate Bill No. Six Hundred Thirty-Nine (639), which was presented to me on March 3, 2022.

You will note that I have approved this bill on March 9, 2022.

Sincerely,

A handwritten signature in blue ink, reading "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 9, 2022

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Four Thousand Forty-Eight (4048), which was presented to me on March 3, 2022.

House Bill No. Four Thousand Two Hundred Ninety-Nine (4299), which was presented to me on March 3, 2022.

House Bill No. Four Thousand Three Hundred Eight (4308), which was presented to me on March 3, 2022.

House Bill No. Four Thousand Three Hundred Twelve (4312), which was presented to me on March 3, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Sixty-Nine (4369), which was presented to me on March 3, 2022.

You will note that I have approved these bills on March 9, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

The Senate proceeded to the fourth order of business.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2300, Including Family Court Judges in the Judges' Retirement System.

With an amendment from the Committee on the Judiciary pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on the Judiciary to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2300) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4002, Creating the Certified Sites and Development Readiness Program.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4002) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4025, Providing exemption to severance tax for severing rare earth elements and other critical minerals.

Eng. House Bill 4450, Removing the \$0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles.

Eng. House Bill 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

Eng. Com. Sub. for House Bill 4613, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

And,

Eng. Com. Sub. for House Bill 4688, Relating to Emergency Medical Services Retirement System Act.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4025, 4613, and 4688, and Eng. H. B. 4450 and 4463) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4111, Relating to the prescriptive authority of advance practice registered nurses.

With amendments from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4111) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4252, To reduce copay cap on insulin and devices.

With amendments from the Committee on Health and Human Resources pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human Resources to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4252) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 4307, Increase some benefits payable from Crime Victims Compensation Fund.

With an amendment from the Committee on the Judiciary pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on the Judiciary to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4307) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4377, To update the involuntary commitment process.

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, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4377) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4393, To increase the managed care tax if the managed care organization receives a rate increase.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 8, 2022;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4408, Relating to contracts for construction of recreational facilities in state parks and forests.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4439, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4408 and 4439) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4502, Establishing the BUILD WV Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4502) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4522, Relating to the expungement of criminal records.

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, unanimous consent being granted, the bill (Eng. H. B. 4522) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 4571, Modifying foundation allowance to account for transportation by electric powered buses.

With an amendment from the Committee on Education pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Education to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4571) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator 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 4607, To remove opioid treatment programs from requiring a certificate of need.

And has amended same.

And,

Eng. House Bill 4627, To provide for no more than two licensed laboratories for medical cannabis testing in this state.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4607 and Eng. H. B. 4627) contained in the preceding report from the Committee on Health and Human Resources were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4668, Relating to air bag fraud.

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, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4668) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds.

With an amendment from the Committee on Pensions pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Pensions to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4756) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 4845, Establishing the Katherine Johnson Academy.

With an amendment from the Committee on Education pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4845) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:55 a.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:13 p.m. and proceeded to the sixth order of business.

Senator Rucker offered the following resolution:

Senate Concurrent Resolution 61—Requesting the Joint Committee on Government and Finance study how public libraries are funded and supported.

Whereas, Public libraries have a long and varied history serving the people of West Virginia; and

Whereas, Public libraries serve as anchor institutions for information, education, and the gathering of people for recreation and work; and

Whereas, Public libraries assist the community with needs such as literacy programs, reading materials, internet access, personal computers, and other technology; and

Whereas, West Virginia's 55 counties are served by 97 library systems charged with promoting a love of reading, access to information, and enhancing their quality of life through community-driven programs. Local public libraries provide services through 171 public library locations located in all 55 counties; and

Whereas, Support to public libraries has traditionally been focused on core library functions such as books and children's programs, the demands on facilities and operating budgets have increased; and state funding for public libraries has not increased in more than 10 years; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study how public libraries are funded and supported; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, 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.

Senator Baldwin offered the following resolution:

Senate Resolution 56—Recognizing James Monroe High School Mavericks Youth Leadership Association students for their participation in the Harvard University Model United Nations Conference.

Whereas, The Harvard Model United Nations is a four-day international relations simulation for high school students, which provides an exciting opportunity for young leaders to debate the most pressing issues of the day and to draft innovative creative solutions; and

Whereas, After a rigorous selection process, six James Monroe High School students earned the honor of being selected to compete in the Harvard University Model United Nations Conference: Lauren Ballard, Jordan Feamster, Luke Fraley, Luke Jackson, Emma Ballard, and Sadie Maxey; and

Whereas, In a Model United Nations debate, student delegates represent a country that are assigned to them and work together with other delegates to develop solutions to problems as broad as drug abuse, world terrorism, use of drones in warfare, and online privacy and security; and

Whereas, Lauren Ballard, who served as Head Delegate for the Mavericks, won an Outstanding Delegate award for her overall effectiveness at steering the debate and simultaneously advancing her country's (Mongolia) interests while working with other countries to find solutions to the problem of violence against indigenous women; and

Whereas, Emma Ballard won a Diplomatic Commendation award for her skill at exhibiting leadership and empathy to the problem of violence against indigenous women; and

Whereas, James Monroe High School has twice earned the privilege to compete in this prestigious conference and has been the only high school chosen from West Virginia in recent history; and

Whereas, Acceptance into this highly competitive debate competition is a testament to the skills of the students of the Maverick debate team, including but not limited to: Public speaking, negotiation, teamwork, leadership, and policy crafting; therefore, be it

Resolved by the Senate:

That the Senate recognizes James Monroe High School Mavericks Youth Leadership Association students for their participation in the Harvard University Model United Nations Conference; and, be it

Further Resolved, The Senate extends its sincere congratulations to the James Monroe High School Mavericks for their admirable performance and exceptional academic achievement, and wishes each of the students well on a bright future ahead; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the James Monroe High School Mavericks debate team.

Which, under the rules, lies over one day.

Senator Grady offered the following resolution:

Senate Resolution 57—Congratulating the Point Pleasant High School Black Knights wrestling team for winning the 2022 Class AA state championship.

Whereas, The Black Knights wrestling team had an outstanding year on the mats, culminating in them winning their 4th consecutive title and 7th state title in school history; and

Whereas, The Black Knights wrestling team is led by head coach John Bonecutter, who was also named 2022 Wrestling Coach of the Year, and assistant coaches: Jed Ott, James Casto, Micah Powell, George Smith, and Andrew Lambert, videographer; and

Whereas, The Black Knights wrestling team consists of team members: Gunner Andrick, Justin Bartee, Conner Blessing, Brayden Connolly, Tanner Epling, Mackandle Freeman, Dylan Keefer, Ethan Kincaid, Ethan Marcum, Luke Moffitt, Ciah Nutter, Colby Price, Derek Raike, Donovan Rainey, Andrew Schoon, Kolton Weaver, Nathan Wood, Josh Woyan; and

Whereas, The Black Knights wrestling team outscored Fairmont Senior 233 points to 116.5 points to earn their team state championship. Individual state champions were: Derek Raike, 160 pounds, four-time state champion, and Most Outstanding Wrestler; Justin Bartee, 145 pounds and four-time state champion; Josh Woyan, 152 pounds; Gunner Andrick, 126 pounds; Conner Blessing, 120 pounds; and Nathan Wood, 113 pounds. As well as individual state placers: Kolton Weaver, 285 pounds, runner-up; Colby Price, 220 pounds, 4th place; and Mackandle Freeman, 138 pounds, 5th place; and

Whereas, The Point Pleasant High School wrestling team is an exemplary model to all West Virginians of what can be accomplished with dedication, commitment, and teamwork, and will be remembered as one of the best wrestling teams ever assembled in West Virginia high school history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Point Pleasant High School wrestling team for winning the 2022 Class AA state championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Point Pleasant High School wrestling team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Resolution 52, Highlighting West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar.

Senate Resolution 53, Designating March 10, 2022, as World Kidney Day at Legislature.

On unfinished business, coming up in regular order, was reported by the Clerk.

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.

Senate Resolution 55, Congratulating Bridgeport High School baseball team for winning 2021 Class AAA state championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar.

The Senate proceeded to the eighth order of business.

Eng. House Bill 2631, Provide for WVDNR officers to be able to work "off duty".

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 2631 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Karnes, Phillips, and Romano—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2631) 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 2631—A Bill to amend and reenact §20-1-7e of the Code of West Virginia, 1931, as amended, relating to allowing off duty Natural Resources Police Officers to contract to work for a private person or entity during off duty hours if work does not violate Division of Natural Resources law or rules regarding location or nature; expanding authority of chief natural resources police office to enter contract for certain services with quasi-public entities; and requiring Division of Natural Resources contracts with public and private entities for certain services provide liability immunity for Natural Resources Police Officers.

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 4020, Relating to reorganizing the Department of Health and Human Resources.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Wednesday, March 9, 2022, 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 and with the unreported Finance committee amendment pending.

Eng. Com. Sub. for House Bill 4050, Defining terms related to livestock trespassing.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Karnes, Phillips, and Romano—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. 4050) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4296, To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4296) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4311, Creating criminal penalties for illegal voting activity.

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, Brown, Clements, Grady, Hamilton, Jeffries, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Caputo, Geffert, Lindsay, Romano, and Stollings—5.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4311) 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 4311—A Bill to amend and reenact §3-9-17 of the Code of West Virginia, 1931, as amended, relating to unlawfully voting generally; creating certain crimes of illegal voting and deceiving voters; prohibiting knowingly and willfully voting or attempting to vote multiple times in the same or equivalent elections as a felony offense and establishing penalties therefor; prohibiting voting or attempting to vote when not entitled to do so as a felony offense and establishing penalties therefor; prohibiting knowingly and willfully procuring or assisting in procuring the acceptance of illegal votes or rejection of legal votes as a felony offense and establishing penalties therefor; and prohibiting knowing and willfully altering ballots or defrauding voters as a felony offense and establishing penalties therefor.

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 4329, To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4329) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 4331, West Virginia's Urban Mass Transportation Authority 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: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4331) 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 4331—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-27-21a, relating to allowing union or labor organization dues or fees to be deducted from the wages of employees of an urban mass transportation authority which receives federal funding from the Federal Transit Administration.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Karnes and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4331) 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 4441, Creating a Class M air rifle stamp.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4441) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton,

Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—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 H. B. 4441) 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 4466, Relating to School Building Authority's review of school bond applications.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4466) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4466—A Bill to amend and reenact §18-9D-15 of the Code of West Virginia, 1931, as

amended, relating to seeking contribution of School Building Authority funds to support a local capital improvement bond finance plan; providing for application to the School Building Authority; requiring initial approval prior to conducting bond levy election; requiring conditional language in materials referencing School Building Authority; limiting use of financial assistance provided; establishing time limit for project completion; allowing extension to the time limit in extenuating circumstances; exempting new provisions from applying to any proposed capital improvement bond levy scheduled to be submitted to the voters on or before December 31, 2022; and deleting obsolete provisions.

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 4540, To update all retirement plans to comport with federal law.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, March 9, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for House Bill 4540 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sybolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4540) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4560) 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 4560—A Bill to amend and reenact §17A-6A-2, §17A-6A-3, §17A-6A-5, §17A-6A-8a, §17A-6A-10, §17A-6A-11, §17A-6A-12, §17A-6A-13, §17A-6A-15, §17A-6A-15a, §17A-6A-15c, and §17A-6A-18 of the Code of West Virginia, 1931, as amended, all relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers;

expanding stated purpose of article; defining terms; clarifying behaviors which do not constitute good cause for a dealer to be sanctioned; addressing compensation for certain dealer actions; clarifying prohibited practices of a manufacturer and distributor; modifying provisions related to dealer successorship or change in executive management; addressing payment to dealers for diagnostic work; clarifying limits of manufacturers and distributors indemnification of dealers; addressing severability; establishing prohibitions against misuse of dealer data; clarifying responsibilities of and restrictions on dealers, manufacturers, distributors and third parties; acknowledging that manufacturer performance standards take local market circumstances into account; and adding to the list of parties subject to West Virginia law; clarifying governing law; amending terms related to cancellations of dealer agreements; modifying circumstances not constituting good cause to cancel an agreement; clarifying the standard of proof in termination, cancellation and nonrenewal disputes; modifying compensation terms when contract is discontinued; setting interest rate where payments to dealers from manufacturers or distributors are untimely; increasing the notice period for dealers where a manufacturer or distributor does not approve a successor dealer or executive manager; clarifying provision related to determination of distance between dealerships; restricting manufacturer and distributor use of dealership property; modifying obligations under warranties; clarifying indemnity practices; identifying unlawful practices; and clarifying manufacturer performance standards.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 4:40 p.m. today:

Eng. Com. Sub. for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

The Senate resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4570, To allow veterinary telehealth in West Virginia with out of state 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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4570) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4644, Prohibiting the restriction, regulation, use or administration of lawn care and pest care 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, Beach, Boley, Brown, Caputo, Clements, Grady, Hamilton, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Baldwin, Geffert, Jeffries, Lindsay, and Romano—5.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4644) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4712, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, March 9, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motions of Senators Trump and Clements, 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:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2b. Payment plan; failure to pay will result in late fee and judgment lien; suspension of licenses for failure to pay fines and costs or failure to appear in court.

(a) Upon request and subject to the following requirements, the municipal court clerk or, upon a judgment rendered on appeal, the

clerk shall establish a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties imposed by the court for a motor vehicle violation as defined in §17B-3-3a of this code, a criminal offense as defined in §17B-3-3c of this code, or other applicable municipal ordinances, so long as the person signs and files with the clerk an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than five equal monthly payments;

(2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan ~~no later than 90 calendar days after the date the court enters upon the entry of~~ the order assessing the costs, fines, forfeitures, restitution, or penalties; and

(3) If the person is incarcerated, he or she ~~may~~ must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan within ~~90~~ 30 calendar days after release.

(b) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of a payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of municipal clerks, and municipal clerks shall use the payment plan form and affidavit form developed by the Supreme Court of Appeals when establishing payment plans.

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment; and

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater; Provided, That if this calculation results in a payment plan lasting more than three years, the monthly payments shall be set by dividing the total amount owed by 36.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If after 90 days, a payment has not been received, the clerk may do one or both of the following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent

payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 90 days of a judgment a person fails to enroll in a payment plan and fails to pay their costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 90 days past due in the payment of costs, fines, forfeitures, restitution, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall

provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county in which the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or penalties is null and void. A person whose driver's license was suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

(h) If a person charged with a motor vehicle violation as defined in §17B-3-3a of this code or criminal offense fails to appear or otherwise respond in court, the municipal court clerk shall notify the Division of Motor Vehicles of the failure to appear: *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of this state, the municipal court clerk shall wait at least 90 days from the date of the person's failure to appear or otherwise respond before notifying the Division of Motor Vehicles thereof. Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES, AND RECORDS.

§50-3-2. Costs in criminal proceedings.

(a) In each criminal case before a magistrate court in which the defendant is convicted, whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures, or penalties ~~as may be~~ allowed by law:

(1) Costs in the amount of \$60, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code;

(2) an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code; and

(3) costs in the amount of \$30 to be deposited in the Regional Jail Operations Partial Reimbursement Fund created by §15A-3-16 of this code. A magistrate may not collect costs in advance. Notwithstanding any other provision of this code, a person liable for fines and court costs in a criminal proceeding in which the defendant is confined in a jail or prison and not participating in a work-release program shall not be held liable for the fines and court costs until ~~one hundred eighty~~ 180 days after completion of the term in jail or prison. A magistrate court shall deposit \$5 from each of the criminal proceedings fees collected pursuant to this section

in the Court Security Fund created in §51-3-14 of this code. A magistrate court shall, on or before the 10th day of the month following the month in which the fees imposed in this section were collected, remit an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code from each of the criminal proceedings in which the fees specified in this section were collected ~~to~~ to the magistrate court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together with information ~~as may be~~ required by the rules of the Supreme Court of Appeals and the rules of the Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the moneys solely in accordance with the provisions of §7-5-15 of this code. Amendments made to this section during the 2001 regular session of the Legislature are effective after June 30, 2001.

(b) A magistrate shall assess costs in the amount of \$2.50 for issuing a sheep warrant and the appointment and swearing appraisers and docketing the proceedings.

(c) In each criminal case which must be tried by the circuit court ~~but~~ in which a magistrate renders some service, costs in the amount of \$10 shall be imposed by the magistrate court and ~~is~~ shall be certified to the clerk of the circuit court in accordance with the provisions of §62-5-6 of this code.

(d) The clerk of a magistrate court shall charge and collect a fee of \$10 for services rendered by the clerk for processing criminal bonds and the fees which shall be assessed as costs of the proceeding due only upon conviction.

(e) All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection may be construed to impose a fee for the processing of a personal recognizance bond.

(f) The clerk of a magistrate court shall charge and collect a fee of \$25 for services rendered by the clerk for processing a bail piece and the fee shall be paid by the surety at the time of issuance. All fees collected pursuant to this subsection shall be deposited in the

Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

§50-3-2a. Payment by electronic payments, credit card payments, cash, money orders, or certified checks; payment plan; failure to pay fines results in a late fee and judgment lien.

(a) A magistrate court may accept electronic payments, credit cards, cash, money order, or certified check for payment of all costs, fines, fees, forfeitures, restitution, or penalties in accordance with rules promulgated by the Supreme Court of Appeals. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, forfeiture, restitution, or penalty.

(b) Upon request and subject to the following requirements, the magistrate clerk shall establish a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties imposed by the court, so long as the person signs and files with the clerk, an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than five equal monthly payments;

(2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan ~~no later than 180 calendar days after the date the court enters upon the entry of the order assessing the costs, fines, forfeitures, restitution, or penalties; and~~

(3) If the person is incarcerated, he or she ~~may~~ must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan within 480 30 calendar days after release.

(c) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to

the offices of magistrate clerks, and magistrate clerks shall use the payment plan form and affidavit form developed by the Supreme Court of Appeals when establishing payment plans.

(d)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the dates on which the payments are due; (C) the amount due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the person's annual ~~net~~ income divided by 12, or \$10, whichever is greater: Provided, That if this calculation results in a payment plan lasting more than three years, the monthly payments shall be set by dividing the total amount owed by 36.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(e)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may do one or both of the following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(f)(1) If after 180 days of a judgment, a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, restitution, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection ~~(f)~~ (g) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(g) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(h) Any driver's license suspension entered by the Division of Motor Vehicles prior to July 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or penalties is null and void. A person whose driver's license was suspended on or after July 1, 2016, but

prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

(i)(1) If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a hunting violation described in chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

(2) If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a fishing violation described in Chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

(j)(1) If a person charged with any criminal violation of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Commissioner of the Division of Motor Vehicles thereof within 90 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person failing to appear or otherwise respond may have to operate a motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full. The suspension shall be imposed in accordance with the provisions of §17B-3-6 of this code.

(2) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any hunting violation described in Chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

(3) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any fishing violation described in Chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or

otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

(k) In every criminal case which involves a misdemeanor violation, a magistrate may order restitution where appropriate when rendering judgment.

(l) Notwithstanding any provision of this code to the contrary, except as authorized by this section, payments of all costs, fines, fees, forfeitures, restitution, or penalties imposed by the magistrate court in civil or criminal matters shall be made in full. Partial payments of costs, fines, fees, forfeitures, restitution, or penalties made pursuant to this section shall be credited to amounts due in the following order:

- (1) Regional Jail Fund;
- (2) Worthless check payee;
- (3) Restitution;
- (4) Magistrate Court Fund;
- (5) Worthless Check Fund;
- (6) Per diem regional jail fee;
- (7) Community Corrections Fund;
- (8) Regional Jail Operational Fund;
- (9) Law-Enforcement Training Fund;
- (10) Crime Victims Compensation Fund;
- (11) Court Security Fund;
- (12) Courthouse Improvement Fund;
- (13) Litter Control Fund;

- (14) Sheriff arrest fee;
- (15) Teen Court Fund;
- (16) Other costs, if any; and
- (17) Fine.

**CHAPTER 59. FEES, ALLOWANCES, AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-10. Fees to be charged by clerk of county commission.

For the purpose of this section, the word "page" is defined as being a paper or electronic writing of not more than legal size, 8 1/2" x 14".

(a) When a writing is admitted to the record, for receiving proof of acknowledgment ~~thereof~~, of the writing, entering an order in connection ~~therewith~~, with the writing, endorsing clerk's certificate of recordation ~~thereon~~ on the writing and indexing in a proper index, the clerk of the county commission shall charge and collect the following fees:

(1) ~~Twenty-five~~ Thirty dollars for a deed of conveyance (with or without a plat), trust deed, fixture filing, or security agreement concerning real estate lease.

(2) Forty dollars for a trustee's report of sale for any property for which additional information and filing requirements are required by ~~section eight a, article one, chapter thirty-eight~~ §38-1-8a of this code. Twenty dollars of each recording fee received pursuant to this subdivision shall be deposited into the county's general revenue fund and \$20 paid quarterly by the clerk of the county commission to the West Virginia Housing Development Fund established in ~~article eighteen, chapter thirty-one~~ §31-18-1 *et seq.* of this code.

(3) Ten dollars for a financing, continuation, termination, or other statement or writing permitted to be filed under chapter ~~forty-six~~ 46 of this code.

(4) Ten dollars for a plat or map (with no deed of conveyance).

(5) No charge for a service discharge record.

(6) Ten dollars for any document or writing other than those referenced in subdivisions (1), (2), (3), (4) and (5) of this subsection.

(7) One dollar for each additional page for documents or writings containing more than five pages.

For any of the documents admitted to record pursuant to this subsection, if the clerk of the county commission has the technology available to receive these documents in electronic form or other media, the clerk shall set a reasonable fee to record these writings not to exceed the cost for filing paper documents.

(8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10 shall be deposited in the county general revenue fund in accordance with ~~section twenty-eight~~ §59-1-28 of this code, \$5 shall be deposited in the county reappraisal fund and dedicated to the operation of the assessor's office mapping division, ~~\$3~~ \$8 shall be deposited in the Courthouse Facilities Improvement Fund created by ~~section six, article twenty-six, chapter twenty-nine~~ §29-26-6 of this code, \$1 to the county 9-1-1 center and \$2 shall be deposited in the county general fund and dedicated to the operation of the county clerk's office. Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this section and \$5 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall be paid by the county clerk into the State Treasury and deposited in equal amounts ~~for deposit~~ into the Farmland Protection Fund created in ~~in article twelve, chapter eight a~~ §8A-12-1 et seq. of this code for the benefit of the West Virginia Agricultural Land Protection Authority and into the Outdoor Heritage Conservation Fund created in ~~in article two-g, chapter five-b~~ §5B-2G-7(f) of this code. The funds deposited in the State

Treasury pursuant to this subdivision may only be used for costs, excluding personnel costs, associated with purpose of land conservation, as defined in ~~subsection (f), section seven, article two g, chapter five b~~ §5B-2G-7(f) of this code.

(b) Five dollars for administering any oath other than oaths by officers and employees of the state, political subdivisions of the state, ~~or~~ a public or quasi-public entity of the state, or a political subdivision of the state, taken in his or her official capacity.

(c) Fifty-five dollars for issuance of marriage ~~a~~ license and other duties pertaining to the marriage license (including preparation of the application, administrating the oath, registering and recording the license, mailing acknowledgment of minister's return to one of the licensees, and notification to a licensee after ~~sixty~~ 60 days of the nonreceipt of the minister's return). This fee is reduced to \$35 if the applicants present a premarital education course completion certificate issued pursuant to ~~section seven hundred one, article two, chapter forty eight~~ §48-2-701 of this code and dated within one year of the application for a marriage license.

(1) One dollar of the marriage license fee received pursuant to this subsection shall be paid by the county clerk into the State Treasury as a state registration fee in the same manner that license taxes are paid into the Treasury under ~~article twelve, chapter eleven~~ §11-12-1 et seq. of this code;

(2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act in the same manner that license taxes are paid into the Treasury under ~~article twelve, chapter eleven~~ §11-12-1 et seq. of this code;

(3) Ten dollars of the marriage license fee received pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by ~~section six, article twenty six, chapter twenty nine~~ §29-26-6 of this code; and

(4) If a premarital education course completion certificate is not presented, the county clerk shall, on or before the 10th ~~tenth~~

day of each month, transmit \$20 of the marriage license fee received pursuant to this subsection to the State Treasurer for deposit in the State Treasury as follows:

(A) Five dollars to the credit of the Family Protection Shelter Support Act in the same manner that license taxes are paid into the Treasury under ~~article twelve, chapter eleven~~ §11-12-1 et seq. of this code.

(B) Five dollars to the credit of the special revenue account, hereby created, designated the Fund for Civil Legal Services for Low Income Persons, which shall consist of all gifts, grants, bequests, transfers, appropriations, or other donations or payments which may be received and administered by the Division of Justice and Community Services from any governmental entity or unit or any person, firm, foundation, or corporation for the purposes of this section, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be made by the Director of the Division of Justice and Community Services and shall be limited to grants to nonprofit agencies which provide civil legal services to low income persons made at his or her discretion. Any balance in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(C) Ten dollars to the credit of the Marriage Education Fund created pursuant to ~~section seven hundred two, article two, chapter forty eight~~ §48-2-702 of this code.

(d) (1) One dollar and ~~fifty~~ 50 cents for a copy of any writing or document, if it is not otherwise provided for.

(2) One dollar for each additional page if the writing or documents contains more than two pages.

(3) One dollar for annexing the seal of the commission or clerk to any paper.

(4) Five dollars for a certified copy of a birth certificate, death certificate, or marriage license.

(e) For copies of any record in electronic form or a medium other than paper, a reasonable fee set by the clerk of the county commission not to exceed the costs associated with document search and duplication.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.

§62-4-17. Suspension of licenses for failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien.

(a) Upon request and subject to the following requirements, the circuit clerk shall establish a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties imposed by the court, so long as the person signs and files with the clerk an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than five equal monthly payments;

(2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan no later than 180 calendar days after the date the court enters upon the entry of the order assessing the costs, fines, forfeitures, restitution, or penalties; and

(3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan within 180 90 calendar days after release.

(b) The Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of circuit clerks and circuit clerks shall use the payment plan form and affidavit form developed by the Supreme Court of Appeals when establishing payment plans.

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against them, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater: Provided, That if this calculation results in a payment plan lasting more than five years, the monthly payments shall be set by dividing the total amount owed by 60.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may do one or both of the following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt

collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, restitution, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all

delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however,* That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney, and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided,* That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or penalties is null and void. A person whose driver's license was suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

(h) If a person charged with a criminal offense fails to appear or otherwise respond in court after having received notice to do so, the court shall notify the Division of Motor Vehicles thereof within 15 days of the scheduled date to appear unless such person sooner appears or otherwise responds in court to the satisfaction of the court. Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

Following discussion,

The question being on the adoption of the amendment offered by Senators Trump and Clements to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4712, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4712) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motions of Senators Trump and Clements, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4712—A Bill to amend and reenact §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §50-3-2 and §50-3-2a of said code; to amend and reenact §59-1-10 of said code; and to amend and reenact §62-4-17 of said code, all relating generally to costs, fines, forfeiture, restitution and penalties; requiring a person, unless incarcerated, to pay all costs, fines, forfeiture, restitution and penalties upon entry of the order assessing them in municipal court, magistrate court, and circuit court; reducing the time period allowed for enrollment for incarcerated persons in municipal court, magistrate court, and circuit court payment plans and limiting the maximum length of payment plans: voiding driver's license suspensions entered prior to July 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or penalties; increasing fees to the Courthouse Facilities Improvement Authority; imposing a \$10 processing fee for criminal bail bonds, other than personal recognizance bonds, to be deposited in the fund; imposing a \$25 fee for the processing of bail pieces, to be deposited in the fund; and increasing the fee for a deed of conveyance with the increase dedicated to the fund.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as a member of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4778) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as a member of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sybolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4779) 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 4779—A Bill to amend and reenact §7-6-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-13-22a of said code; to amend and reenact §12-1-4 of said code; and to amend and reenact §18-9-6 of said code, all relating to county, municipal, state, and county Board of Education public depositories; and giving those public depositories which redeposit public monies to ensure they are federally insured the discretion on whether or not to accept a reciprocal deposit.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4842, Relating to obscene matter to minors.

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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4842) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Weld, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill 4842—A Bill to amend and reenact §61-8-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8C-3 of said code, all relating to crimes against minors and child pornography; creating the felony offense of indecent exposure to children 16 years of age or younger and establishing penalties therefore; and clarifying the groups of persons to whom the criminal prohibitions related to child pornography are inapplicable when such persons are performing their official or employment duties.

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 731, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 732, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 733, Supplementing and amending appropriation to Executive, Governor's Office.

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 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal.

(a) The division, upon registering a vehicle, shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer, or other motor vehicle.

(b) Registration plates issued by the division shall meet the following requirements:

(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.

(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: *Provided*, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.

(3) Registration numbering for registration plates shall begin with the number two.

(c) The division may not issue, permit to be issued, or distribute any special registration plates except as follows:

(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(2) State officials and judges may be issued special registration plates as follows:

(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture, and the Attorney General, the members of both houses of the Legislature, including the elected officials of both houses of the Legislature, the justices of the Supreme Court of Appeals of West Virginia, the representatives and senators of the state in the Congress of the United States, the judges of the West Virginia circuit courts, active and retired on senior status, the judges of the United States district courts for the State of West Virginia and the judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for a Class A motor vehicle and a special registration plate for a Class G

motorcycle owned by the official or his or her spouse: *Provided*, That the division may issue a Class A special registration plate for each vehicle titled to the official and a Class G special registration plate for each motorcycle titled to the official.

(B) Each plate issued pursuant to this subdivision shall bear any combination of letters and numbers not to exceed an amount determined by the commissioner and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the motor vehicle is owned by the official or his or her spouse.

(C) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(3) The division may issue members of the National Guard forces special registration plates as follows:

(A) Upon receipt of an application on a form prescribed by the division and receipt of written evidence from the chief executive officer of the Army National Guard or Air National Guard, as appropriate, or the commanding officer of any United States armed forces reserve unit that the applicant is a member thereof, the division shall issue to any member of the National Guard of this state or a member of any reserve unit of the United States armed forces a special registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state's Army or Air National Guard, or retired members of any reserve unit of the United States armed forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in

the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.

(C) A surviving spouse may continue to use his or her deceased spouse's National Guard forces license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(4) Specially arranged registration plates may be issued as follows:

(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subdivision, the registration plates requested and issued shall include all plates bearing the numbers two through 2,000.

(C) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(5) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee is

to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(6) The division may issue disabled veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a vehicle titled in the name of the qualified applicant which bears the letters "DV" in red and also the regular identification numerals in red.

(B) A surviving spouse may continue to use his or her deceased spouse's disabled veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles and shall denote

that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.

(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Purple Heart medal license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:

(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles.

(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as

described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:

(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of \$15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organization's logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.

(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the State Road Fund. The nonprofit charitable or educational organization may also collect a fee for marketing the special registration plates.

(10) The division may issue specified emergency or volunteer registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal's assistants, the State Fire Administrator, and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group, or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(11) The division may issue specified certified firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees. The firefighter certification department, section, or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subdivision.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(12) The division may issue special scenic registration plates as follows:

(A) Upon appropriate application, the commissioner shall issue a special registration plate displaying a scenic design of West Virginia which displays the words "Wild Wonderful" as a slogan.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund.

(13) The division may issue honorably discharged Marine Corps League members special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged Marine Corps League member a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division may charge a special one-time initial application fee of \$10 in addition to all other fees required by this

chapter. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration and shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged Marine Corps League license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(14) The division may issue military organization registration plates as follows:

(A) The division may issue a special registration plate for the members of any military organization chartered by the United States Congress upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the chartered organization in good standing, as determined by the governing body of the chartered organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's military organization registration plate until the surviving spouse dies, remarries, or does not renew the special military organization registration plate.

(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(B) The division shall charge an annual fee of \$15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.

(C) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.

(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.

(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an annual fee of \$15, in addition to all other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.

(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle, as defined in §17A-10-3a of this code, a special registration plate designed by

the commissioner. An annual fee of \$15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.

(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:

(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(19) Racing theme special registration plates:

(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.

(B) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees

required by this chapter. All application fees shall be deposited into the State Road Fund.

(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of the Division of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal as applicable.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal special registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(21) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War,

or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans' registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(22) The division may issue special volunteer firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant's fire chief, stating that the applicant is a volunteer firefighter and justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one-time initial application fee of \$10, which is in addition to any other registration

or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.

(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase, or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words "In God We Trust":

(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant's choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of the Division of Motor Vehicles for distribution to applicants.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the license plates designated by this subdivision.

(24) Special license plates bearing the American flag and the logo "9/11/01":

(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo "9/11/01".

(B) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:

(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands, and health, as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.

(26) The division may issue special registration plates to educators in the state's elementary and secondary schools and in the state's institutions of higher education as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special educator registration plate in addition to all other fees required by this chapter.

(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Nemesis Shrine to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(29) The division shall issue special registration plates to individuals who have received ~~either the Combat Infantry Badge or the Combat Medic Badge~~ the U.S. Army Combat Infantryman Badge, Combat Action Badge, or Combat Medical Badge; the U.S.

Marine Corps, U.S. Navy, or U.S. Coast Guard Combat Action Ribbon; or the U.S. Air Force Combat Action Medal as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received ~~either the Combat Infantry Badge or the Combat Medic Badge~~ the U.S. Army Combat Infantryman Badge, Combat Action Badge, or Combat Medical Badge; the U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard Combat Action Ribbon; or the U.S. Air Force Combat Action Medal.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(30) The division may issue special registration plates to members of the Knights of Columbus as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Knights of Columbus to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2007.

(31) The division may issue special registration plates to former members of the Legislature as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(32) Democratic state or county executive committee member special registration plates:

(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey and shall differentiate by wording on the plate between state and county executive committee members.

(B) An annual fee of \$25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least 100 completed applications from the state or county executive committee members, including all fees required pursuant to this subdivision.

(E) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the democratic executive committee to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(33) The division may issue honorably discharged female veterans' special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial

application fee of \$15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(35) The division may issue special registration plates to members of the Harley Owners Group as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Harley Owners Group.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:

(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's retired military license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with or support for Fairmont State ~~College~~ University as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(38) The division may issue special registration plates honoring the farmers of West Virginia, and the division may issue special beekeeper pollinator registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner. Upon appropriate application, the division shall issue a special registration plate displaying a pollinator species or advocating its protection as prescribed and designated by the commissioner.

(B) The division shall charge a special initial application fee of \$10 for each plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(39) The division shall issue special registration plates promoting education as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a children's education-related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:

(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's special 82nd Airborne Division Association registration

plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(41) The division may issue special registration plates to applicants supporting law-enforcement officers, to retired members of the West Virginia State Police, and ~~the division may issue special registration plates~~ to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner which recognizes, supports, and honors the men and women of law-enforcement and includes the words "Back the Blue". Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police, or the law-enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association, or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.

(B) For special registration plates supporting law-enforcement officers, the division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. An annual fee of \$15 shall be charged for each plate supporting law-enforcement officers in addition to all other fees required by this chapter.

(C) Registration plates issued pursuant to this subdivision to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency are exempt from the registration fees otherwise required by the provisions of this chapter. A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries, or does not renew the plate. Survivors of

wounds received in the line of duty as a member with a West Virginia law-enforcement agency may obtain a license plate as described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(D) Upon appropriate application, the division may issue special registration plates designed by the commissioner for any number of vehicles titled in the name of the qualified applicant who offers sufficient proof of being a retired member of the West Virginia State Police. The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(42) The division may issue a special registration plate for persons who are Native-Americans and residents of this state:

(A) Upon appropriate application, the division shall issue to an applicant who is a Native-American resident of West Virginia a registration plate for a vehicle titled in the name of the applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a Native-American.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins

College for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(44) The division may issue special registration plates recognizing and honoring breast cancer survivors. The division may also issue special registration plates to support a cure for childhood cancer:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the "pink ribbon emblem", for any number of vehicles titled in the name of the applicant. Upon appropriate application, the division may also issue a special registration plate designed by the commissioner to support a cure for childhood cancer, such plate to incorporate somewhere in the design the gold ribbon emblem with "WV Kids Cancer Crusaders" below or next to the emblem and "Cure Childhood Cancer" at the bottom of the plate, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(47) The division may issue special registration plates to members of Lions International as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with Lions International for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Lions International.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(48) The division may issue special registration plates supporting organ donation and adoption as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner which recognizes, supports, and honors organ and tissue donors and includes the words "Donate Life", and the division may issue a special registration plate designed by the commissioner which supports and encourages adoption and includes the words "Choose Life".

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(49) The division may issue special registration plates to members of the West Virginia Bar Association as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the West Virginia Bar Association for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the West Virginia Bar Association.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(50) The division may issue special registration plates bearing an appropriate logo, symbol, or insignia combined with the words "SHARE THE ROAD" designed to promote bicycling in the state as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(51) The division may issue special registration plates honoring coal miners and the coal industry ~~as follows, as well as other professions, as set forth in this subdivision as follows:~~

(A)(i) Upon appropriate application, the division shall issue a special registration plate depicting and displaying coal miners in mining activities as prescribed and designated by the commissioner and the board of the National Coal Heritage Area Authority.

(ii) The division may ~~also~~ issue registration plates with the words "Friends of Coal".

(iii) The division may issue special registration plates recognizing the occupation of linemen, showing appreciation for workers who construct and maintain utility lines, and depicting a scene or other apt reference to the occupation of linemen, whether in words or pictures, at the discretion of the commissioner.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of license plates designated by this subdivision.

(52) The division may issue special registration plates to present and former Boy Scouts, and to present and former members of the Civil Air Patrol as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of present or past membership in the Boy Scouts as either a member or a leader, or in the Civil Air Patrol, as applicable. The special registration plates for the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(53) The division may issue special registration plates to present and former Boy Scouts who have achieved Eagle Scout status as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of achievement of Eagle Scout status.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(54) The division may issue special registration plates recognizing and memorializing victims of domestic violence:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and memorialize victims of domestic violence, such plate to incorporate somewhere in the design the "purple ribbon emblem", for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(55) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with, or support for, the University of Charleston as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(56) The division may issue special registration plates to members of the Sons of the American Revolution as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in

consultation with the Sons of the American Revolution for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Sons of the American Revolution.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(57) The commissioner may issue special registration plates for horse enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(58) The commissioner may issue special registration plates to the next of kin of a member of any branch of the armed services of the United States killed in combat as follows:

(A) Upon appropriate application, the division shall issue a special registration plate for any number of vehicles titled in the name of a qualified applicant depicting the Gold Star awarded by the United States Department of Defense as prescribed and designated by the commissioner.

(B) The next of kin shall provide sufficient proof of receiving a Gold Star lapel button from the United States Department of

Defense in accordance with Public Law 534, 89th Congress, and criteria established by the United States Department of Defense, including criteria to determine next of kin.

(C) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of special license plates designated by this subdivision.

(59) The commissioner may issue special registration plates for retired or former justices of the Supreme Court of Appeals of West Virginia as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of special license plates designated by this subdivision.

(60) Upon approval by the commissioner of an appropriate application, and upon all requirements of this subdivision being satisfied, the division may issue special registration plates for Class A and Class G motor vehicles to members of an organization for which a special registration plate has not been issued pursuant to any other subdivision in this subsection prior to January 1, 2010, in accordance with the provisions of this subdivision:

(A) An organization desiring to create a special registration plate must comply with the following requirements to be eligible to apply for the creation and issuance of a special registration plate:

(i) The organization must be a nonprofit organization organized and existing under Section 501(c)(3) of Title 26 of the Internal Revenue Code and based, headquartered, or have a chapter in West Virginia;

(ii) The organization may be organized for, but may not be restricted to, social, civic, higher education, or entertainment purposes;

(iii) The organization may not be a political party and may not have been created or exist primarily to promote a specific political or social belief, as determined by the commissioner in his or her sole discretion;

(iv) The organization may not have as its primary purpose the promotion of any specific faith, religion, religious belief, or antireligion;

(v) The name of the organization may not be the name of a special product or brand name, and may not be construed, as determined by the commissioner, as promoting a product or brand name; and

(vi) The organization's lettering, logo, image, or message to be placed on the registration plate, if created, may not be obscene, offensive, or objectionable as determined by the commissioner in his or her sole discretion.

(B) Beginning July 1, 2010, an organization requesting the creation and issuance of a special registration plate may make application with the division. The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested, and the organization making the application, meet all of the requirements set forth in this subdivision. The application shall also include a proposed design, including lettering, logo, image, or message to be placed on the registration plate. The commissioner shall notify the

organization of the commissioner's approval or disapproval of the application.

(C)(i) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this subdivision until the organization which applied for the special registration plate has collected and submitted collectively to the division applications completed by at least 250 persons and collectively deposited with the division all fees necessary to cover the first year's basic registration, one-time design and manufacturing costs, and to cover the first year additional annual fee for all of the applications submitted.

(ii) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate will not be produced until a new application is submitted and is approved by the commissioner: *Provided*, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special plate until at least two years have passed since the approval of the previous application of the organization.

(D) The division shall charge a special initial application fee of \$25 for each special license plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(E) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(F) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization.

(G) The commissioner shall discontinue the issuance or renewal of the registration of any special plate issued pursuant to this subdivision if:

(i) The number of valid registrations for the specialty plate falls below 250 plates for at least 12 consecutive months; or

(ii) The organization no longer exists or no longer meets the requirements of this subdivision.

(d) The minimum number of applications required prior to design and production of a special license plate shall be as follows:

(1) The commissioner may not begin the design or production of any license plates for which eligibility is based on membership or affiliation with a particular private organization until at least 100 persons complete an application and deposit with the organization a check to cover the first year's basic registration, one-time design and manufacturing costs, and to cover the first year additional annual fee. If the organization fails to submit the required number of applications with attached checks within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That an organization or group that is unsuccessful in obtaining the minimum number of applications may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization: *Provided, however*, That the provisions of this subdivision are not applicable to the issuance of plates authorized pursuant to §17A-3-14(c)(60) of this code.

(2) The commissioner may not begin the design or production of any license plates authorized by this section for which membership or affiliation with a particular organization is not required until at least 250 registrants complete an application and deposit a fee with the division to cover the first year's basic registration fee, one-time design and manufacturing fee, and additional annual fee, if applicable. If the commissioner fails to receive the required number of applications within six months of the effective date of the original authorizing legislation, the plate

will not be produced and will require legislative reauthorization: *Provided*, That if the minimum number of applications is not satisfied within the six months of the effective date of the original authorizing legislation, a person may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization.

(e)(1) Nothing in this section requires a charge for a free prisoner of war license plate or a free recipient of the Congressional Medal of Honor license plate for a vehicle titled in the name of the qualified applicant as authorized by other provisions of this code.

(2) A surviving spouse may continue to use his or her deceased spouse's prisoner of war license plate or Congressional Medal of Honor license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(3) Qualified former prisoners of war and recipients of the Congressional Medal of Honor may obtain a second special registration plate for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second special plate.

(f) The division may issue special 10-year registration plates as follows:

(1) The commissioner may issue or renew for a period of no more than 10 years any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle license plate authorized by §17A-10-3a of this code: *Provided*, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by §17D-2A-3 of this code or failure to pay personal property taxes as required by §17A-3-3a of this code.

(2) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this subsection, which

is the total amount of fees required by §17A-3-3, §17A-10-3a, or §17A-10-15 of this code for the period requested.

(g) The provisions of this section may not be construed to exempt any registrant from maintaining motor vehicle liability insurance as required by §17D-2A-3 of this code or from paying personal property taxes on any motor vehicle as required by §17A-3-3a of this code.

(h) The commissioner may, in his or her discretion, issue a registration plate of reflectorized material suitable for permanent use on motor vehicles, trailers, and semitrailers, together with appropriate devices to be attached to the registration to indicate the year for which the vehicles have been properly registered or the date of expiration of the registration. The design and expiration of the plates shall be determined by the commissioner. The commissioner shall, whenever possible and cost effective, implement the latest technology in the design, production, and issuance of registration plates, indices of registration renewal and vehicle ownership documents, including, but not limited to, offering Internet renewal of vehicle registration and the use of bar codes for instant identification of vehicles by scanning equipment to promote the efficient and effective coordination and communication of data for improving highway safety, aiding law enforcement, and enhancing revenue collection.

(i) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order, or certified check and all applicable fees assessed as a result thereof have been paid.

(j) The division shall, upon request of a qualifying applicant, exempt one nonexempt military special registration plate per qualifying applicant from all registration fees. For purposes of this subsection:

(1) "Exempt military special registration plate" means a special registration plate related to military service that is issued pursuant

to this section for which registration fees are exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, a special registration plate issued to one of the following:

(A) A disabled veteran pursuant to §17A-3-14(c)(6), §17A-10-8(4), or §17A-10-8(5) of this code;

(B) A recipient of the Purple Heart medal pursuant to §17A-3-14(c)(7) of this code;

(C) A survivor of the attack on Pearl Harbor pursuant to §17A-3-14(c)(8) of this code;

(D) A former prisoner of war pursuant to §17A-10-8(6) of this code; or

(E) A recipient of the Congressional Medal of Honor pursuant to §17A-10-8(7) of this code.

(2) "Nonexempt military special registration plate" means a special registration plate related to military service that is issued pursuant to this section for which registration fees are not exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, special registration plate issued to one of the following:

(A) A member of the National Guard forces pursuant to §17A-3-14(c)(3) of this code;

(B) An honorably discharged veteran pursuant to §17A-3-14(c)(5) or §17A-3-14(c)(21) of this code;

(C) An honorably discharged Marine Corps League member pursuant to §17A-3-14(c)(13) of this code;

(D) A member of a military organization pursuant to §17A-3-14(c)(14) of this code;

(E) A recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal pursuant to §17A-3-14(c)(20) of this code;

(F) A recipient of the Combat Infantry Badge or the Combat Medic Badge pursuant to §17A-3-14(c)(29) of this code;

(G) An honorably discharged female veteran pursuant to §17A-3-14(c)(33) of this code;

(H) A person retired from any branch of the armed services of the United States pursuant to §17A-3-14(c)(36) of this code; or

(I) A member of the 82nd Airborne Division Association pursuant to §17A-3-14(c)(40) of this code.

(3) "Qualifying applicant" means an applicant who qualifies for an exempt military special registration plate, and who also qualifies for a nonexempt military special registration plate, who requests that the division issue one such nonexempt military special registration plate instead of such exempt military special registration plate in order to have such nonexempt military special registration plate be exempt from the payment of registration fees.

The bill (Eng. Com. Sub. for H. B. 2733), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3082, Stabilizing funding sources for the DEP Division of Air Quality.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 3231, Public Utilities not required to pay interest on security deposits.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4008, Relating to Higher Education Policy Commission funding formula.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page one, after the enacting clause by inserting the following:

ARTICLE 1. GOVERNANCE.

§18B-1-1F. STATE COLLEGE AND UNIVERSITY EXEMPTION STATUS.

(a) The Legislature finds that:

(1) Efficiencies, entrepreneurialism, and the effectiveness of governing boards in fulfilling certain goals can be incentivized through the accountability and autonomy associated with exemption status for state colleges and universities based on meeting certain criteria; and

(2) Leading higher education authorities in the nation identify common, key performance indicators as an important measure of institutional effectiveness, including, but not limited to, enrollment benchmarks, fiscal benchmarks, and student success benchmarks.

(b) The following definitions apply to terms used in this section:

(1) "Administratively exempted schools" means state colleges and universities:

(A) That achieve and maintain three out of five of the following:

(i) Graduation rates: A three-year average graduation rate of not less than 45 percent;

(ii) Retention rates: A three-year average retention rate of not less than 60 percent; and

(iii) Credit head count enrollment: A three-year credit head count enrollment increase, or a decrease of not more than five percent over the same period;

(iv) Days of cash reserved: A three-year average of not less than 50 days cash reserved; and

(v) Composite Financial Index: A Composite Financial Index of not less than one as reported in the college and university's audited financial statements; or

(B) Whose governing board requests a review by the chancellor of any special circumstances and the commission grants administratively exempted status based on those special circumstances as verified by the chancellor after his or her review.

(2) "Composite Financial Index" means the benchmarking tool used by the Higher Learning Commission as a financial indicator and developed specifically for the higher education industry and is a combination of several different ratios, each of which is comprised of data that, when analyzed further, can provide insight into an institution's financial health and inform decision-making processes;

(3) "Credit headcount enrollment" means the total number of unique students, but not counting dual-enrolled high school students, who enrolled in credit-bearing classes during the fall, spring, and summer terms in a given academic year at a specific institution;

(4) "Days of cash reserved" means the audited end of fiscal year cash balance, multiplied by 365, and then divided by the audited total expenses less depreciation, and less other post employment benefit and pension liability expenses;

(5) "Graduation rates" means the proportion of first time in college students who obtain a bachelor's degree within six years, as further defined by and reported to the commission;

(6) "Retention rates" means the proportion of first-time, fall term, full-time freshmen students who are in continuing enrollment in the fall term of the next succeeding year; and

(7) "State college and university" shall have the same meaning as provided in §18B-1-2 of this code.

(c) Any state college and university may apply to the commission for designation as an administratively exempted school. The commission shall make its determination as to whether to grant or deny exemption designation based on the definition of administratively exempted school. The commission shall propose rules for legislative approval pursuant to §29A-3A-1 *et seq.* of this code to implement the provisions of this section and that addresses loss of an administratively exempted designation. The rule shall at least include the following:

(1) After the first year an administratively exempted school fails to meet three of the five criteria under the definition of administratively exempted schools, the commission may advise the institution on strategies that may be implemented in order to meet three of the five criteria before the following year;

(2) An institution may not lose its designation as an administratively exempted school until it has failed to meet three of the five criteria under the definition of administratively exempted schools for two consecutive years;

(3) If an institution is administratively exempt based on special circumstances, the commission may revoke the administratively exempted status of a state college and university if it determines that the special circumstance that the state college and university's administratively exempted status is based on no longer exists; and

(4) The commission shall provide notice to the institution at least 30 days before revoking the institution's administratively exempted status.

(d) Notwithstanding any other provision of this code to the contrary:

(1) West Virginia University, including West Virginia University Potomac State College and West Virginia University Institute of Technology; Marshall University; and the West Virginia School of Osteopathic Medicine, which are statutorily exempted schools under §18B-1-2 of this code, are institutions of unique characteristics and their continuing inclusion as a statutorily exempted school is confirmed; and

(2) No other state institution of higher education maintains exempted school status pursuant to any other provision of this code except any exempted school status designated by the commission pursuant to this section: Provided, That notwithstanding any provision of this section to the contrary, any college or university shall be exempt from the requirement that the commission approve the establishment of new four-year programs on their own campuses for programs incentivized within the funding formula established in §18B-1B-4 of this code if the state appropriation to that school is less than 40 percent of their operating expenses for three consecutive years.

(e) Notwithstanding any other provision of this code to the contrary, any state college and university that applies and is designated by the commission as an administratively exempted school is exempt from the following:

(1) The required approval of capital projects to ensure that capital projects and facility needs are managed effectively pursuant to §18B-1B-4(a)(10) of this code;

(2) The development and approval of institutional mission definitions pursuant to §18B-1B-4(a)(34) of this code;

(3) The program approval required pursuant to §18B-1B-4(a)(35) of this code;

(4) The rules providing guidance to the governing boards in filling vacancies in the office of the president pursuant to §18B-1B-6(d) of this code;

(5) The commission's rule governing and controlling acquisitions and purchases pursuant to §18B-5-4 of this code, upon

adoption by the board of governors of said school of its own rule governing and controlling acquisitions and purchases pursuant to §18B-5-4 of this code, following the procedures for adoption of rules provided for in this code;

(6) The required approval of capital improvement projects exceeding \$3 million pursuant to §18B-19-6 of this code;

(7) The required approval of lease-purchase agreements for capital improvements and equipment of \$1.5 million or greater pursuant to §18B-19-11 of this code; and

(8) The required approval of real estate transactions, lease purchase, and new building construction exceeding \$1 million pursuant to §18B-19-13 of this code.

(g) Not later than the January interims of each year, the commission shall submit a report to the Legislative Oversight Commission on Education Accountability relating to the administratively exempted schools eligibility criteria established by this section, providing the data for each of the three preceding years, as available, and the three-year average thereof, for each of the state institutions of higher education under its jurisdiction. The commission shall share the report with the institutions.

The bill (Eng. Com. Sub. for H. B. 4008), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4021, Relating to the Medical Student Loan Program.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4059, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section four, line thirty-four, by striking out the word "and";

On page two, section four, line thirty-five, after the word "areas" by changing the period to a semicolon and inserting the word "and";

And,

After line thirty-five, by inserting a new subdivision, designated subdivision (16), to read as follows:

(16) Any person hired as an attorney beginning July 1, 2022.

The bill (Eng. Com. Sub. for H. B. 4059), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4087, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4098, Relating to Geothermal Energy Development.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

Eng. House Bill 4110, Relating to staffing levels at multi-county vocational centers.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4112, Provide consumers a choice for pharmacy services.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Health and Human Resources committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4285, Relating to real estate appraiser licensing board requirements.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§30-38-10. Civil liability for board members; liability limitations of professionals reporting to board; disqualification of board members from disciplinary proceedings or actions.

(a) Members of the board will be immune from individual civil liability for actions taken in good faith and without malice, within the scope of their duties as board members.

(b) Any person licensed or certified by this board who reports or otherwise provides evidence of violations of this article or the board's rules by another person engaging in real estate appraisal activity to the board, is not liable for making the report if it is made

without malice and in the reasonable belief that the report is warranted by the facts known to him or her at the time.

(c) No member of the board may participate in or vote on a disciplinary proceeding or action concerning a real estate appraisal activity in which he or she has previously participated or in which he or she has given testimony or been engaged to give testimony, or in which the board member has a conflict of interest. In any such instance, the board member shall recuse himself or herself from the proceeding or action.

§30-38-11. Applications for license or certification; renewals.

(a) An individual who desires to engage in real estate appraisal activity in this state shall make application for a license, in writing, ~~in on~~ a form as the board may prescribe. ~~In addition to any other information required, the applicant's Social Security number will be recorded on the application~~

(b) To assist the board in determining whether grounds exist to deny the issuance of a license to an applicant, the board may require the fingerprinting of every applicant for an original license.

(c) The payment of the appropriate fee must accompany all applications for original certification and renewal of certification and all applications to take an examination.

(d) At the time of filing an application for original certification or for renewal of certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules to be observed by an appraiser. Each applicant shall also certify that he or she understands the types of misconduct, as set forth in this article, for which disciplinary proceedings may be initiated.

(e) To obtain a renewal of license or certification under this article, the holder of a current license or certification shall make application and pay the prescribed fee to the board no earlier than 120 days nor later than 30 days prior to the expiration date of the current license or certification. Each application for renewal must be accompanied by evidence in the form prescribed by the board

that the applicant has completed the continuing education requirements for renewal specified in this article and the board's rules.

(f) If the board determines that an applicant for renewal has failed to meet the requirements for renewal of license or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the applicant's license or certification for a period not to exceed six months upon payment by the applicant of a prescribed fee for the extension. If the applicant for renewal of license or certification satisfies the requirements for renewal during the extension period, the beginning date of his or her renewal license or certificate shall be the day following the expiration of the certificate previously held by the applicant.

(g) If a state-licensed or certified real estate appraiser under this article fails to renew his or her license or certification prior to its expiration or within any period of extension granted by the board pursuant to this article, the applicant may obtain a renewal of his or her license or certification by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee, within two years of the date that his or her license or certification expired.

(h) The board may deny the issuance or renewal of a license or certification for any reason enumerated in this article or in the rules of the board, or for any reason for which it may refuse an initial license or certification.

(i)(1) If the board denies issuance of a renewal of a license or certification, or denies an initial license or certification application, the board shall provide a written statement to the applicant for an initial license or certification, or applicant for a renewal of a license or certification, clearly describing the deficiencies of the application for his or her license or certificate.

(2) The board shall provide this statement to an initial applicant or a renewal applicant within 15 calendar days of its decision to deny licensure or certification. The board may send its statement

through the United States mail, electronic mail service, or both, to ensure it reaches the applicant or renewal applicant.

(3) If the basis for the denial is due to submitted appraisals failing to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), the board shall provide written guidance to the applicant describing, in detail, each aspect of each submitted appraisal that does not conform to USPAP and the corrective action necessary to remedy nonconformity. The board shall provide 60 days to the applicant to remedy any nonconformity. The applicant shall resubmit any corrected appraisals on or before the 60th day and the board shall reevaluate the appraisals only pertaining to any nonconformity. If the nonconformity or nonconformities are remedied and resubmitted on or before the 60th day, the board shall accept the appraisal for purposes of issuing a license.

§30-38-17. Standards of professional appraisal practice.

Each real estate appraiser licensed or certified under this act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation. ~~The board may, after a public hearing or public comment period held in accordance with provisions of §29A-3-1 et seq., adopt revised versions or make modifications of or additions to the uniform standards of professional appraisal practice.~~

The bill (Eng. Com. Sub. for H. B. 4285), as amended, was then ordered to third reading.

Eng. House Bill 4288, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4336, Providing for the valuation of natural resources property.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 4355, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Education committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4373, To exclude fentanyl test strips from the definition of drug paraphernalia.

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:

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 19. DRUG PARAPHERNALIA.

§47-19-3. Drug paraphernalia defined.

(a) The following items, if marketed for use or designed for the use with controlled substances, are considered drug paraphernalia for the purpose stated in section one of this article:

(1) Kits marketed for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits marketed for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices marketed for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment marketed for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances; Provided, That fentanyl test strips shall not be considered drug paraphernalia for the purpose stated in section one of this article;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters marketed for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers marketed for use, or designed for use in packaging small quantities of controlled substances;

(10) Hypodermic syringes, needles and other objects marketed for use, or designed for use in parenterally injecting controlled substances into the human body;

(11) Paper of colorful design, with names oriented for use with controlled dangerous substances and displayed: *Provided*, That white paper or tobacco oriented paper not necessarily designed for use with controlled substances is not covered;

(12) Pipes displayed in the proximity of roach clips, or literature encouraging illegal use of controlled substances, are covered by this article: *Provided*, That pipes otherwise displayed are not covered by this article;

(13) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(14) Miniature cocaine spoons, and cocaine vials; or

(15) Chillums or bongos.

(b) In determining whether an object is marketed for use or designed for use as drug paraphernalia, the State Tax Commissioner or other authority should consider the following:

(1) The proximity of the object, in time and space, to a controlled substance;

(2) The existence of any residue of controlled substances on the object;

(3) Instructions, oral or written, provided with the object concerning its use;

(4) Descriptive materials accompanying the object which explain or depict its use;

(5) National and local advertising concerning its use;

(6) The manner in which the object is displayed for sale;

(7) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(8) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;

(9) The existence and scope of legitimate uses for the object in the community.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-403a. Prohibition of illegal drug paraphernalia businesses; definitions; places deemed common and public nuisances; abatement; suit to abate nuisances; injunction; search warrants; forfeiture of property; penalties.

(a) Any person who conducts, finances, manages, supervises, directs or owns all or part of an illegal drug paraphernalia business is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or confined in jail not less than six months nor more than one year, or both.

(b) A person violates subsection (a) of this section when:

(1) The person conducts, finances, manages, supervises, directs, or owns all or part of a business which for profit, in the regular course of business or as a continuing course of conduct, manufactures, sells, stores, possesses, gives away or furnishes objects designed to be primarily useful as drug devices.

(2) The person knows or has reason to know that the design of such objects renders them primarily useful as drug devices.

(c) As used in this section, "drug device" means an object usable for smoking marijuana, for smoking controlled substances defined as tetrahydrocannabinols, or for ingesting or inhaling cocaine, and includes, but is not limited to:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

- (ii) Water pipes;
- (iii) Carburetion tubes and devices;
- (iv) Smoking and carburetion masks;
- (v) Roach clips; meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (vi) Chamber pipes;
- (vii) Carburetor pipes;
- (viii) Electric pipes;
- (ix) Air-driven pipes;
- (x) Chillums;
- (xi) Bonges;
- (xii) Ice pipes or chillers; and
- (xiii) Miniature cocaine spoons, and cocaine vials.

In any prosecution under this section, the question whether an object is a drug device shall be a question of fact.

(d) A place where drug devices are manufactured, sold, stored, possessed, given away or furnished in violation of this section shall be deemed a common or public nuisance. Conveyances or vehicles of any kind shall be deemed places within the meaning of this section and may be proceeded against under the provisions of subsection (e) of this section. A person who shall maintain, or shall aid or abet or knowingly be associated with others in maintaining such common or public nuisance shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by confinement in jail not more than six months for each offense, and judgment shall be given that such nuisance be abated or closed as a place for the manufacture, sale, storage, possession, giving away or furnishing of drug devices.

(e) The prosecuting attorney or a citizen of the county or municipality where a nuisance as defined in subsection (d) is located, may maintain a suit in the name of the state to abate and perpetually enjoin the same. Circuit courts shall have jurisdiction thereof. The injunction may be granted at the commencement of the suit and no bond shall be required if such action for injunction be brought by the prosecuting attorney. If such suit for injunction be brought or maintained by a citizen of the county or municipality where such nuisance is alleged to be located, then the court may require a bond as in other cases of injunction. On the finding that the material allegations of the complaint are true, the court or judge thereof in vacation shall order the injunction for such period of time as it or he or she may think proper, with the right to dissolve the injunction upon the application of the owner of the place, if a proper case is shown for such dissolution.

The continuance of the injunction as provided in this section may be ordered, although the place complained of may not at the time of hearing be unlawfully used.

(f) If there be complaint on oath or affirmation supported by affidavit or affidavits setting forth the facts for such belief that drug devices are being manufactured, sold, kept, stored or in any manner held, used or concealed in a particular house or other place with intent to engage in illegal drug paraphernalia business in violation of law, a magistrate or a circuit court, or the judge thereof in vacation to whom such complaint is made, if satisfied that there is probable cause for such belief, shall issue a warrant to search such house or other place for such devices. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of West Virginia pertaining to search warrants. Warrants issued under this section for the search of any automobile, boat, conveyance or vehicle, or for the search of any trunk, grip or other article of baggage, for such devices, may be executed in any part of the state where the same are overtaken, and shall be made returnable before any magistrate or circuit court, or the judge thereof in vacation, within whose jurisdiction such automobile, boat, conveyance, vehicle, trunk, grip or other article

of baggage, or any of them, were transported or attempted to be transported.

An officer charged with the execution of a warrant issued under this section, may, whenever it is necessary, break open and enter a house, or other place herein described.

(g) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the state.

(h) Nothing in this chapter prohibits the possession, sale or purchase of fentanyl test strips.

The bill (Eng. Com. Sub. for H. B. 4373), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4389, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

On motion of Senator Takubo, at 5:12 p.m., the Senate recessed.

The Senate reconvened at 5:21 p.m. and resumed consideration of the remainder of its second reading calendar, the next bill coming up in numerical sequence being

Eng. House Bill 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

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 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5c. Contribution limitations.

(a)(1) A person, political party, or political action committee may not, in an election cycle:

(A) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking nomination, including by making contributions to the candidate's committee; or

(B) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking election, including by making contributions to the candidate's committee: *Provided*, That a candidate may receive contributions for the general election prior to nomination, however, such funds may not be expended until after the date of the nomination is declared.

(2) The contribution limits of this section apply only to elections to be held after the effective date of this section and do not apply to candidate committees that were created for elections held prior to the effective date of this section.

(b) A person, except candidate committees and caucus campaign committees, may not, directly or indirectly, make contributions to a state party executive committee, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee which, in the aggregate, exceed \$10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise designate any portion of a contribution made pursuant to this subsection to be used to support or oppose the election of a particular candidate: *Provided, however*, That any such designation or earmark that accompanies a contribution made pursuant to this subsection may not be binding on the entity that receives the contribution.

(c) A person may not, directly or indirectly, make contributions to a political action committee, related to a particular election, which, in the aggregate, exceed \$5,000.

(d) Candidate committees and caucus campaign committees may make contributions to their affiliated state party executive committees, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee up to \$75,000.

(e) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

§3-8-9b. Coordinated expenditures by political party committees and political party caucuses in connection with certain statewide candidates.

(a) Notwithstanding the provisions of §3-8-9a of this code, the state committee of a political party and caucus campaign committee may make coordinated expenditures ~~in an amount not to exceed \$5,000 in connection~~ in any amount with the general election campaign of the candidate for each of the following offices: Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates.

(b) Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.

(c) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

§3-8-10. Use of certain contributions.

(a) Notwithstanding any provision of this code to the contrary, amounts received by a candidate as contributions that are in excess of any amount necessary to defray his or her expenditures may be:

(1) Used by the candidate to defray any usual and customary expenses incurred in connection with his or her duties as a holder of public office; and

(2) Contributed by the candidate, after the general election, to:

(A) Any charitable organization or subsequent campaign by the same candidate, without limitation;

(B) Any national committee in accordance with federal requirements;

(C) Any state party executive committee or state party legislative caucus committee, in ~~an amount not to exceed \$15,000 in a calendar year~~ any amount; or

(D) Any local committee of any political party or any other candidate for public office, in accordance with the existing limitations on contributions.

(b) The State Election Commission shall promulgate emergency and legislative rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code, to establish guidelines for the administration of this section.

(c) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

The bill (Eng. H. B. 4419), as amended, was then ordered to third reading.

Eng. House Bill 4433, Providing that retirement benefits are not subject to execution.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4488, Relating to coal mining and changing fees for permitting actions.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4492, Creating the Division of Multimodal Transportation.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 16B. PUBLIC PORT AUTHORITY.

§17-16B-1. Creation of authority.

[Repealed].

§17-16B-2. Board of directors — Members, officers, qualifications, terms, oath, compensation, quorum and delegation of power.

[Repealed].

§17-16B-3. Executive director; appointment; powers and duties; compensation.

[Repealed].

§17-16B-5. Definitions.

[Repealed].

§17-16B-6. Powers and duties of authority.

[Repealed].

§17-16B-7. Special West Virginia public port authority operations fund.

[Repealed].

§17-16B-7a. Special Railroad and Intermodal Enhancement Fund; purposes.

[Repealed].

§17-16B-7b. Study of feasibility intermodal facility at Prichard, West Virginia.

[Repealed].

§17-16B-8. Designation of local port authority districts, powers and duties; plan for development.

[Repealed].

§17-16B-9. Construction and operation of facilities by private enterprise; leasing of facilities by port authority.

[Repealed].

§17-16B-10. Foreign trade zones; free trade zones; ports of entry and customs zones.

[Repealed].

§17-16B-11. Study of feasibility of establishment of export trading company.

[Repealed].

§17-16B-12. Division of tourist trains and transportation; duties.

[Repealed].

§17-16B-13. Disclaimer of any liability of state of West Virginia.

[Repealed].

§17-16B-14. Prohibition on funds inuring to the benefit of or being distributable to directors, employees, officers or private persons; prohibition against certain financial interests; criminal penalties.

[Repealed].

§17-16B-15. Port revenue bonds — Generally.

[Repealed].

§17-16B-16. Public port revenue bonds — Trust agreements.

[Repealed].

§17-16B-17. Tolls, rents, fees, charges and revenues.

[Repealed].

§17-16B-18. Trust funds.

[Repealed].

§17-16B-19. Remedies.

[Repealed].

§17-16B-20. Exemption from taxes.

[Repealed].

§17-16B-21. Preliminary expenses.

[Repealed].

§17-16B-22. Public port revenue refunding bonds — Generally.

[Repealed].

ARTICLE 16C. DIVISION OF PUBLIC TRANSIT.

§17-16C-1. Creation of division.

[Repealed].

§17-16C-2. Designation of department.

[Repealed].

§17-16C-3. Powers and duties of the division.

[Repealed].

§17-16C-5. Assistance of other state agencies.

[Repealed].

ARTICLE 16F. WEST VIRGINIA DIVISION OF MULTIMODAL TRANSPORTATION FACILITIES.**§17-16F-1. Legislative findings and creation of division.**

(a) The Legislature finds and declares that there is a need to streamline the execution and implementation of the state's multimodal transportation goals and reduce related costs by consolidating existing multimodal authorities to a single division, known as the West Virginia Division of Multimodal Transportation Facilities, under the Secretary of Transportation pursuant to the provisions of chapter 5F of this code. The Department of Transportation, through the West Virginia Division of Multimodal Transportation Facilities, is designated as the agency of this state responsible for administering all federal and state programs related to public ports, railroads, aeronautics, airports, and air navigation facilities.

(b) On July 1, 2022, the Public Port Authority, the West Virginia State Rail Authority, Division of Public Transit, and the West Virginia State Aeronautics Commission are reestablished, reconstituted, and continued as the West Virginia Division of Multimodal Transportation Facilities, an agency of the state. The purpose of the division is to administer all federal and state programs related to public ports, railroad transportation and commerce, public transit, aeronautics, airports, and air navigation facilities in the State of West Virginia, and thereby to encourage and facilitate growth and economic development opportunities utilizing such transport facilities. The powers and duties heretofore

imposed upon the Public Port Authority, the West Virginia State Rail Authority, Division of Public Transit, and the West Virginia State Aeronautics Commission are transferred to and imposed upon the West Virginia Division of Multimodal Transportation Facilities in the manner prescribed by this article.

(c) It is the intent of this article to consolidate into the West Virginia Division of Multimodal Transportation Facilities those entities and employees performing functions which will be facilitated by their consolidation. The Department of Transportation shall provide appropriate office locations necessary to fulfill the functions of the division.

(d) On the effective date of this article, all real property interests, vehicles, equipment contracts or agreements, interests under any existing insurance policy, and records belonging to the Public Port Authority, the West Virginia State Rail Authority, the Division of Public Transit, and the West Virginia State Aeronautics Commission shall be transferred to the West Virginia Division of Multimodal Transportation Facilities. Any state funds, special revenue funds, and all accounts created for the benefit or use of the Public Port Authority, the West Virginia State Rail Authority, the Division of Public Transit, and the West Virginia State Aeronautics Commission are transferred to the West Virginia Division of Multimodal Transportation Facilities in accordance with the provisions of this article.

§17-16F-2. Secretary's Powers and duties.

The Secretary of the Department of Transportation or his or her designee shall be the chief operating officer of the division who shall:

(1) Administer the operations of the division, consistent with the provisions of this article, by allocating the functions, activities, and personnel of the division among the various sections;

(2) Coordinate with the Secretary of the Department of Economic Development and any other applicable departments or

agencies to facilitate economic development utilizing transportation facilities;

(3) Supervise payrolls and audit payrolls, reports, or transactions for conformity with the provisions of this article;

(4) Plan, evaluate, administer, and implement multimodal transportation programs and policies in the state as set forth in this article;

(5) Utilize professional staff within the Department of Transportation to assist in the operations of the division and authorize reimbursement therefor;

(6) Assist the Governor in multimodal transportation matters; and

(7) Make a report by June 30, and every year thereafter, to the Governor and all other special or periodic reports as may be required and post all reports on its website. Reports to the Legislature are not required; however, upon request of any member or committee, a report must be provided and may be provided electronically. Paper copies of any report shall be provided upon request.

§17-16F-3. Definitions.

As used in this article, unless the context indicates another or different meaning or intent:

"Aeronautics" means the art and science of flight, including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; and the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities.

"Aircraft" means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air whether manned or unmanned.

"Air navigation" means the operation or navigation of aircraft in the air space over this state or upon any airport within this state.

"Air navigation facility" means any facility other than one owned or controlled by the federal government used in, available for use in, or designed for use in aid of air navigation, including airports, and any structures, mechanisms, lights, beacons, markers, communications system, or other instrumentalities or devices used or useful as an aid or constituting an advantage or convenience to the safe taking off, air navigation, and landing of aircraft or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

"Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"Bond" means a revenue bond or rate issued by the division to effectuate the intents and purposes of this article.

"Commissioner" means the chief operating officer and administrative head of the Multimodal Division, when such person is appointed by the Secretary of Transportation.

"Commuter rail" means a transit mode that is an electric or diesel propelled railway for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburbs. Service must be operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas or between urbanized areas and outlying areas. The rail service, using either locomotive-hauled or self-propelled railroad passenger cars, is generally characterized by multi-trip tickets, specific station-to-station fares, or railroad employment practices and usually has only one or two stations in the central business district. It does not include heavy rail, rapid transit, light rail, or streetcar transit service. Intercity rail service is excluded except for that portion of service operated by or under contract with a public transit agency

for predominantly commuter services. Only the predominantly commuter service portion of an intercity route is eligible for inclusion when determining commuter rail route miles.

"Development plan" means a document which details the overall strategy of the division for the proper planning and sustainable development of an area and consists of a written statement and accompanying maps.

"Division" means the West Virginia Division of Multimodal Transportation Facilities.

"Heavy rail" means a transit mode that is an electric railway with the capacity for a heavy volume of traffic. It is characterized by high speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, sophisticated signaling and high platform loading.

"Income" means and includes all money accruing to the division or part thereof from any source.

"Intermodal transportation" means the successive transport of goods or passengers using more than one mode of transportation, including air, rail, ship, or roadway.

"Light rail" means a transit mode that typically is an electric railway with a light volume traffic capacity. It is characterized by passenger rail cars operating singly or in short, usually two-car trains, on fixed rails in shared or exclusive rights-of-way, low- or high-platform loading, and vehicle power drawn from an overhead electric line via a trolley or a pantograph.

"Multimodal transportation" means the consideration or connection of various modes of transportation, including air, rail, ship, or roadway.

"Municipality" means any county, city, town, village, or other political subdivision of this state.

"Municipal" means pertaining to a municipality.

"Operation fund" means the special West Virginia Public Port Operation Fund as created by §17-16F-12 of this code.

"Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon the ground within this state.

"Owner" means and includes all individuals, co-partnerships, associations, corporations, companies, transportation companies, public service corporations, the United States or any of its agencies or instrumentalities, common carriers by rail and railroad companies having any title or interest in any rail properties authorized to be acquired, leased, or used by this article.

"Person" means any individual, firm, corporation, partnership, company, foreign or domestic association, including railroads, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative.

"Port" or "public port" means ports, airports, wayports, terminals, buildings, roadways, rights-of-way, rails, rail lines, facilities for rail, water, highway or air transportation, and such structures, equipment, facilities, or improvements as are necessary.

"Predominantly commuter services" means that for any given trip segment (i.e., distance between two stations), more than 50 percent of the average daily ridership travels on the train at least three times a week.

"Public port development" or "public port project" means any activities which are undertaken with respect to public ports.

"Rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad or other person which are used, or useful, in rail transportation service: *Provided*, That rail properties do not include any properties owned, leased or otherwise controlled by a railroad not in reorganization, unless it consents to such properties' inclusion in the particular transaction.

"Rail service" means both freight and passenger service.

"Railroad" means a common carrier by railroad as defined in Section 10102 of the Interstate Transportation Act (49 U.S.C. § 10102).

"Railroad project" means the initiation, acquisition, construction, maintenance, repair, equipping, or operation of rail properties or rail service, or the provisions of loans or grants to or with government agencies, or to persons for such purposes, by the division.

"Wayport" means an airport used primarily as a location at which passengers and cargo may be transferred between connecting flights of air carriers engaged in air commerce, but also allows passengers to initiate and terminate flights and shipments of cargo to originate and terminate at the airport or similar type facility.

"West Virginia Commuter Rail Access Fund" means the special West Virginia Commuter Rail Access Fund created by §17-16F-27 of this code.

"West Virginia Railroad Maintenance Fund" means the West Virginia Railroad Maintenance Fund created by §17-16F-17 of this code.

§17-16F-4. Powers and duties of division.

The division shall perform all acts necessary and proper to carry out the purposes of this article and is granted the following powers and duties:

(1) To promote, supervise, and support safe, adequate, and efficient transportation throughout the state;

(2) To preserve roadway, railroad, waterway, and airway facilities,

(3) To help facilitate economic development in this state utilizing transportation facilities;

(4) To meet and cooperate with similar divisions, authorities, or bodies of any of the several states contiguous with this state, whose purpose in their respective states is to establish an interstate or intermodal transportation network;

(5) To take all steps appropriate and necessary to effect siting, development, and operation of public ports, railroads, or airport facilities within the state;

(6) To employ managers, superintendents, and other sufficiently trained and qualified personnel and retain or contract with consulting engineers, financial consultants, accountants, attorneys, and other consultants and independent contractors when necessary to carry out the provisions of this article and fix their compensation or fees. All expenses are payable from the proceeds of revenue bonds or notes issued by the division, from revenues and funds appropriated for this purpose by the Legislature, or from grants from the federal government which may be used for such purpose;

(7) To make and enter into all contracts and agreements with any federal, state, county, municipal agency, or private entity and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers including, but not limited to, the power to make contracts and agreements in accordance with the provisions set forth in this article;

(8) To acquire, purchase, lease, construct, own, hold, operate, maintain, equip, use, and control, by eminent domain or other means, any land, property, rights, franchises, easements, ports, and such terminals, buildings, roadways, rights-of-way, rails and such structures, equipment, facilities, any and every kind or character of motive powers and conveyances or appliances necessary or proper to carry goods, wares, and merchandise over, along, upon or through the railway, waterway or airway, or other conveyance of such transportation system, excluding pipelines or improvements, as are necessary or incident to carry out the provisions of this article, upon such terms and at such price as may be considered by it to be reasonable and to take title in the name of the state;

(9) To lease, sell, or otherwise dispose of real and personal property in the exercise of its powers and the performance of its duties as set forth in this article;

(10) To act on behalf of the state and to represent the state in the planning, financing, development, construction, and operation of any port, transit facility, railroad, or aeronautics project or any facility related to any such project, with the concurrence of the affected public agency. Other state agencies and local governmental entities in this state shall cooperate to the fullest extent the division deems appropriate to effectuate the duties of the division;

(11) To act as agent for the United States of America, or any of its agencies, departments, corporations, or instrumentalities, in any manner coming within the purposes or powers of the division;

(12) To expend funds available for the purpose of studying any proposed railroad project, which may include consulting with engineers. All expenses incurred in conducting the study and necessary engineering shall be paid from the funds established in §17-16F-17 of this code;

(13) To report annually to the Legislature by December 31 of each year the status of projects, operations, financial condition, and other necessary information relating to the statewide multimodal transportation system and activities in accordance with this article and any report may be made electronically with paper copies provided upon request to any member of the Legislature;

(14) To meet with political subdivisions of the state to assess both specific and general transportation needs of the state in terms of transportation, as well as consider feasibility studies for the purpose of determining the best site locations for transportation centers, terminals, railroads, airports, ports and harbors, and foreign trade zones;

(15) To apply for and accept loans, grants or gifts of money, property, or service from the United States, any political subdivision, any public or private sources available, or any public

or private lender or donor, to give such evidences of indebtedness as may be required and to permit the state Board of Investments to invest, as provided by this code, any funds received by the division pursuant to the provisions of this code;

(16) To make loans and grants, out of any appropriation made to the division by the Legislature or out of any funds at its disposal, to governmental agencies and persons for carrying out any multimodal transportation projects by any governmental agency or person in accordance with rules adopted under this article;

(17) To issue revenue bonds or request other appropriate state agencies to issue and administer revenue bonds to finance port, railroad, transit, or aeronautics projects;

(18) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments, and other evidence of indebtedness, and in connection with providing technical, consulting, and project assistance services; and

(19) To act, through the Department of Transportation, the division is hereby designated as the agency of this state responsible for administering all federal and state programs relating to public transportation and public transit facilities.

§17-16F-5. Rules of division.

(a) All rules promulgated by the Public Port Authority, the West Virginia State Rail Authority, the Division of Public Transit, or the West Virginia State Aeronautics Commission in effect at the time of creation of the division shall continue in full force and effect until revised or repealed by the division.

(b) The division, upon consultation with the Secretary of the Department of Transportation, may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the purposes of this article. The division may promulgate any necessary emergency rules to implement the provisions of this article pursuant to the provisions of §29A-3-15 of this code.

§17-16F-6. Advisory Boards.

(a) The division may convene advisory boards composed of members with subject-matter expertise and experience in the various modes of transportation under the purview of the division.

(b) Any such advisory board may advise the division on issues and assist the division as requested.

(c) The Secretary of the Department of Transportation shall be the chairperson of any such advisory board: *Provided*, That the secretary may appoint a designee to act in his or her stead at meetings.

(d) The Secretary of the Department of Transportation shall not receive any compensation for serving as chairperson. Any appointed members of a board shall receive the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or substantial portion thereof engaged in the discharge of official duties. All compensation and expenses incurred shall be payable from funds applicable to the advisory board from the corresponding section within the division or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the section beyond the extent to which moneys are available from funds of the section or from such appropriations.

§17-16F-7. Annual report.

(a) The division shall prepare and file a comprehensive report annually by December 31 with the Governor and the Joint Committee on Government and Finance setting forth the overall strategic plan for both short term and long term for goals and accomplishments of the purposes set forth in this article. Incidental to the development of a comprehensive strategic plan for multimodal transportation, the division shall analyze the intermodal shipment of products and passengers through the state, and shall be authorized to collect and analyze such information, which is maintained in the ordinary course of business by the

person, firm, or corporation providing such information, pertaining to the transportation of products and passengers which has been moved by rail, water, or air to and from points within and without this state.

(b) Any such information and data supplied to the division shall be for exclusive use of the division. Such information is deemed confidential and is not subject to disclosure under the Freedom of Information Act, §29B-1-1 et seq. of this code. The division shall not publicly disclose this information and data to any person, firm, corporation, or agent. It is unlawful for any employee of this State to divulge or make known in any manner any information obtained pursuant to this subsection or disclose information concerning the personal or business affairs of any individual or the business of any single firm or corporation, or disclose any particulars set forth or disclosed in any report or other information provided to the division. Violation of this subsection by any employee or former employee will result in a misdemeanor, and upon conviction thereof, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both, together with costs of prosecution.

§17-16F-8. Financial interest in contracts prohibited; penalty.

No employee of the division may be financially interested, directly or indirectly, in any contract of any person with the division, or in the sale of any property, real or personal, to or from the division. This section does not apply to contracts or purchases of property, real or personal, between the division and any governmental agency. Violation of this subsection by a division employee will result in a misdemeanor, and upon conviction thereof, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both, together with costs of prosecution.

§17-16F-9. Public purpose of activities; property of public utilities and common carriers.

(a) The division is authorized to acquire any lands or interests pursuant to this article. The planning, acquisition, establishment, construction, improvement, maintenance, and operation of public port, railroad, transit, airport, or air navigation facilities, whether

by the state separately or jointly with any municipalities and the exercise of any other powers granted to the division are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this article are declared to be acquired and used for governmental purposes and as a matter of public necessity.

(b) The division shall take or distribute property or facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, if provision is made for the restoration, relocation, or duplication of such property or facilities elsewhere at the cost of the division.

(c) The division shall make reasonable policies for the installation, construction, maintenance, repair, renewal, relocation, and removal of railroad or public utility facilities in, on, over or under any public port, railroad, airport, or air navigation facility project. Whenever the division determines that any such facilities installed or constructed in, on, over, or under property of the division pursuant to such policies must be relocated, the railroad or public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the division. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands or any rights or interests in lands and the cost of any other rights acquired to accomplish such relocation or removal, may be paid by the division as a part of the cost of such project.

(d) When relocating or removing facilities, the railroad or public utility owning or operating them, and its successors or assigns, shall maintain, and operate such facilities, with the necessary appurtenances in the new location in, on, over, or under the property of the division for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location.

(e) In the condemnation of property authorized by this section, the division shall proceed in the name of the State in the manner provided by chapter 54 of this code.

§17-16F-10. Construction and operation of facilities by private enterprise; leasing of facilities by division.

(a) The division shall foster and encourage the participation of private enterprise in the development of railroad, waterway, transit, and airway facilities to the fullest extent it deems practicable in the interest of limiting the necessity of construction and operation of such facilities by the division. In this respect, the division shall advertise and solicit for the construction, operation, maintenance, or a combination thereof for any facility included in the development plan in accordance to plans, specifications, policies, or guidance prepared by the division.

(b) When the division considers it advisable and practicable, it may include certain facilities in the development plan to be installed by private enterprise and leased back to the division on an installment contract or option to purchase: *Provided*, That any such lease back arrangement must be financially feasible, and any bonds or loans utilized to enter into such lease back arrangement shall be repayable in full from the expected rentals to be generated by such facility.

§17-16F-11. Foreign trade zones; free trade zones; ports of entry and customs zones.

The division shall develop, maintain, and operate foreign trade zones, free trade zones, ports of entry and customs zones under such terms and conditions as are or may be prescribed by federal law, and to keep foreign trade zone status for, and to assist in the applications for foreign trade zone status of political subdivisions and eligible private corporations under federal law.

§17-16F-12. Special West Virginia Public Port Operations Fund; West Virginia Multimodal Division Operations Fund; other funds transferred to the Division of Multimodal Transportation.

(a) The special West Virginia Public Port Authority Operations Fund created by prior enactment of §17-16B-7 of this code, is continued and shall be known as the West Virginia Multimodal Division Fund. The moneys in the fund shall only be expended to fulfill the provisions of this article. At the end of each fiscal year, any unexpended funds in this account shall be appropriated and available for expenditure for the subsequent fiscal year.

(b) Any fund utilized for any purpose within the State Aeronautics Commission, the Division of Public Transit, the Public Port Authority, or the State Rail Authority shall be transferred to the Division of Multimodal Transportation and continued until such time when the division determines a fund is unnecessary or may be better managed by combining certain funds to best serve the interests of the division and the public.

§17-16F-13. Additional powers and duties of division related to railroad projects.

(a) The secretary shall appoint necessary staff to oversee and manage the facilities and operations of the state rail section. Staff are covered by the Department of Transportation merit- based personnel system and the Classification and Compensation Career Plan. The division shall facilitate railroad transportation and commerce within the state by exercising those powers of the state necessary to qualify for rail services continuation subsidies pursuant to the provisions of the federal Fixing America's Surface Transportation Act of 2015 and any future amendments and regulations from the federal government.

(b) The division shall carry out railroad projects or direct railroad projects to be carried out pursuant to a lease, sublease, or agreement with any person or governmental agency; shall make loans and grants to or with governmental agencies or to persons for railroad projects; and shall issue bonds of this state, payable solely from revenues, to pay the cost of such projects. The division will not undertake a railroad project unless it is consistent with any applicable development plans for railroad projects previously approved.

(c) The division shall establish, fund, construct, reconstruct, acquire, repair, replace, operate, and maintain railroads and railroad projects.

(d) The division shall make available the use of services of any railroad project to one or more persons, one or more governmental agencies or any combination.

(e) The division shall engage in research and development with respect to railroads.

(f) The division shall make and enter into contracts and agreements to acquire rolling stock or equipment with a value of \$1 million or less exempt from the provisions of §5A-3-1 *et seq.* of this code. The secretary may propose rules for promulgation for adoption by the Legislature in accordance with the provisions of §29A-3-1 *et seq.* of this code which set forth the methods for determining value of rolling stock or equipment to be purchased and any other rules as may be needed.

(1) Where rolling stock, equipment or trackage of the division is in need of immediate maintenance, repair, or reconstruction to avoid a cessation of its operations, economic loss, the inability to provide essential service to customers, or would otherwise be a danger to rail personnel or the public, the following requirements and procedures for entering into the contract or agreement to remedy the condition shall be in lieu of those provided in §5A-3-1 *et seq.* of this code or any pursuant promulgated legislative rule:

(A) If the cost under the contract or agreement involves an expenditure of more than \$1,000, but \$50,000 or less, the division shall award the contract to or enter into the agreement with the lowest responsible bidder based upon at least three oral bids made pursuant to the requirements of the contract or agreement; or

(B) If the cost under the contract or agreement, other than one for compensation for personal services, involves an expenditure of more than \$50,000, but \$150,000 or less, the division shall award the contract to or enter into the agreement with the lowest responsible bidder based upon at least three bids, submitted to the

division in writing on letterhead stationery, made pursuant to the requirements of the contract or agreement.

(2) Notwithstanding any provision of this code to the contrary, a contract or lease for the operation of a railroad project constructed and owned by the division or an agreement for cooperation in the acquisition or construction of a railroad project authorized by this article is not subject to the provisions of §5A- 3-1 *et seq.* of this code or any promulgated legislative rule and the division shall enter into the contract or lease or the agreement pursuant to negotiation and upon such terms and conditions and for a period of time as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or of efficient acquisition or construction of the railroad project.

(3) The division may reject any bids. A bond with good and sufficient surety, approved by the division, is required of all contractors in an amount equal to at least 50 percent of the contract price, conditioned upon the faithful performance of the contract.

(g) The division shall purchase fire and extended coverage and liability insurance for any railroad project, and for any offices of the division insurance protecting the division, officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and be a member of, and to participate in, the state workers' compensation insurance.

(h) The division shall charge, alter, and collect rates, rentals and other charges for the use or services of any railroad project as provided in this article.

(i) The division may purchase railroad tracks being abandoned by any common carrier.

(j) The division shall acquire rail properties both within and not within the jurisdiction of the Surface Transportation Board and rail properties within the purview of the federal Fixing America's Surface Transportation Act of 2015, any amendments to it, and any other relevant federal legislation.

(k) The division shall assume the agreements and contracts currently in effect for the State Rail Authority and may enter into agreements with owners of rail properties for the acquisition of rail properties or use, or both, of rail properties upon the terms, conditions, rates, or rentals that can best effectuate the purposes of this article.

(l) The division shall acquire rail properties and other property of a railroad in concert with another state or states as is necessary to ensure continued rail service in this state.

(m) The division shall provide in the state plan for the equitable distribution of federal rail service continuation subsidies among state, local, and regional transportation authorities.

(n) The division shall maintain adequate programs of investigation, research, promotion, and development in connection with the purposes of the division and to provide for public participation.

(o) The division shall provide satisfactory assurances on behalf of the state that fiscal control and fund accounting procedures will be adopted by the state necessary to assure proper disbursement of and accounting for federal funds paid to the state as rail service continuation subsidies.

(p) The division shall comply with the regulations of the Secretary of Transportation of the United States Department of Transportation affecting federal rail service continuation programs.

(q) The division shall maximize federal assistance to the state under Title IV of the federal Regional Rail Reorganization Act of 1973 or any current or future federal statutes and to qualify for rail service continuation subsidies pursuant to the federal Fixing America's Surface Transportation Act of 2015 or any future federal statutes.

§17-16F-14. Additional authority regarding the Maryland Area Regional Commuter.

(a) The division shall coordinate all activities with the Maryland Transit Administration for the operation of the

commuter rail operation between Maryland, the Washington, D.C. metropolitan area, and West Virginia. Any payments of track access fees pursuant to the agreement shall be paid from the fund created in §17-16F-27 of this code as provided by appropriation of the Legislature.

§17-16F-15. Rail operations; purchases.

(a) The division may sell, transfer, or lease all, or any part of, the rail properties and other property acquired under the provisions of this article to any responsible person, firm, or corporation for continued operation of a railroad or other public purpose: *Provided*, That approval for the continued operation or other public purpose, is granted by the Surface Transportation Board of the United States, whenever approval is required. The sale, transfer, or lease shall be for a price and subject to any further terms and conditions which the division deems necessary and appropriate to this article.

(b) After acquiring any railroad lines within the state, the division shall assist any responsible person, firm, or corporation to secure, as promptly as possible, any order or certificate required by the Surface Transportation Board for the performance of railroad service. The division shall also give any assurances or guarantees which are necessary or desirable to carry out the purposes of this article.

(c) The division shall take whatever steps are necessary to determine the absolute fee simple title ownership of all rail properties of any railroad within the state. The determination may include the status of the rail properties with respect to easements, rights-of-way, leases, reversionary rights, fee simple title ownership, and any related title matters. The division may retain attorneys, experts, or other assistants, and issue any contracts as are necessary to make the title determination.

(d) All rail properties offered for sale by any railway corporation within the state after the enactment date of this article shall be offered first for sale to the state.

(e) The division shall cooperate with other states when purchasing rail properties within this state. The division shall also acquire railroad rights in other states and rail properties lying in other states to carry out the intentions and purposes of this article. In carrying out the powers and duties conferred by this article, the division shall enter into general contractual arrangements, including joint purchasing and leasing of rail properties with other states.

(f) In weighing the varied interests of the residents of this state, the division shall consider the individual interest of any county or municipality expressing a desire to acquire a portion, or all, of the abandoned real estate located within its jurisdiction. The division may acquire the abandoned property for subsequent conveyance to the county or municipality.

(g) The division may utilize federal funds, grants, gifts, or donations which are available and any sums that are appropriated in carrying out the purposes of this article. The division may also apply for discretionary or other funds available under the provisions of the federal Regional Rail Reorganization Act of 1973 or any current or future federal programs.

(h) The division may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to the federal Regional Rail Reorganization Act of 1973, or any other federal programs, within the limit of funds appropriated for those purposes.

(i) The division may purchase any railroad rolling stock, equipment, and machinery necessary for the operation and maintenance of any rail properties purchased by it on behalf of the state, with any funds made available for this purpose. The division may also acquire and have available a pool of equipment and machinery which may be utilized by the operators of the rail properties for the purpose of track maintenance and other related railroad activities upon terms and conditions determined appropriate. Notwithstanding any the provisions of this code to the contrary, the division and the Commissioner of the Division of

Highways may enter into contracts or agreements for the lease or purchase and maintenance of any vehicles required for its purposes.

(j) The division may contract for the rebuilding or relocation of any rail properties acquired pursuant to this article, within the provisions of the federal Regional Rail Reorganization Act of 1973 or any current or future federal statutes, or any other applicable legislation. The division may also spend any sums appropriated, as well as any other available funds, for the modernization, rebuilding, and relocation of any rail properties owned by the state or by a private carrier. The division shall do any maintenance on any rail properties owned by the state as is necessary in the public interest.

(k) The division may contract with any domestic or foreign person, firm, corporation, agency, or government to provide, maintain, or improve rail transportation service on the rail properties acquired by the state under this article.

(l) Whenever the division determines that any rail properties acquired by the state are no longer needed for railroad purposes, it shall, with the permission of the Governor, permanently or temporarily transfer the rail properties to any other state department or agency or political subdivision of the state, which shall utilize the properties for a public purpose. Whenever more than one department or agency or political subdivision wishes to utilize the property, the division shall resolve such a conflict and make a prompt determination of the reasonable and proper order of priority, taking into consideration any applicable state plans, policies, or objectives. If no state department or agency or political subdivision wants the properties, the division may sell them.

§17-16F-16. Railroad Maintenance Fund.

The Railroad Maintenance Fund heretofore created is hereby continued and shall be administered by the division. Expenditures are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code.

Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with the state rail portions of this article. All costs and expenses incurred pursuant to this article for state rail, including administrative, shall be paid from those funds. The division may expend, out of any funds available for the purpose, such moneys as are necessary for the study of any proposed railroad project and may use its engineering and other forces, including consulting engineers for the purpose of effecting such study. All such expenses incurred by such study and engineering shall be paid from the Railroad Maintenance Fund.

§17-16F-17. Division empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

(a) The division, with approval of the secretary, may raise the cost of one or more railroad projects or parts of railroad projects by the issuance of railroad maintenance revenue bonds and notes of the state in such principal amount as the division deems necessary, but the aggregate amount of all issues of bonds and notes outstanding at one time for all projects authorized hereunder may not exceed that amount capable of being serviced by revenues received from such projects.

(b) The division, with approval of the secretary, may issue renewal notes, issue bonds to pay the notes and whenever it deems refunding expedient, refund any bonds by the issuance of railroad maintenance revenue refunding bonds of the state, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold, and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the division, every issue of its bonds or notes pursuant to this section are obligations of the division payable out of the revenues of the State Rail Section, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds

or notes pledging any particular revenues. Such pledge is valid and binding from the time the pledge is made, and the revenue so pledged and thereafter received by the division is immediately subject to the lien of such pledge without any physical delivery or further act and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the division irrespective of whether the parties have notice.

(c) All bonds and notes have and are declared to have all the qualities of negotiable instruments.

(d) The bonds and notes authorized by the division, with approval of the secretary, shall bear the date and shall mature at such time, in the case of any note or any renewals not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding 50 years from the date of issue, as the authorization may provide. The bonds and notes shall bear interest at a rate, be in denominations, be in the form, either coupon or registered, carry registration privileges, be payable in a medium of payment, at place and be subject to any terms of redemption that the division may authorize. The bonds and notes shall be sold by the division at public or private sale, at or not less than the price the division determines. The bonds and notes shall be executed by the commissioner. The official seal of, or a facsimile, shall be affixed or printed and attested, manually or by facsimile signature, by the commissioner, which may be made by facsimile or electronic signature. Any coupons attached shall bear the signature, facsimile signature, or electronic signature of the commissioner. In case the commissioner whose signature, a facsimile signature, or an electronic signature, appears on any bonds, notes or coupons ceases to be commissioner before delivery of the bonds or notes, the signature, facsimile or electronic signature is nevertheless sufficient for all purposes the same as if he or she had remained in their respective positions until delivery and in case the seal of the commissioner has been changed after a facsimile has been imprinted on such bonds or notes the facsimile seal will continue to be sufficient for all purposes.

(e) Any authorization of any bonds or notes or any issue shall contain provisions, subject to agreements with bondholders or noteholders as may then exist, as part of the contract with the holders, as to pledging all or any part of the revenues of the State Rail Section to secure the payment of the bonds or notes or of any issue; the use and disposition of revenues of the State Rail Section; a covenant to fix, alter and collect rates, rentals and other charges so that pledged revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues and provide any reserves that may be required by the applicable authorization or trust agreement; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the authorization of issuance of the bonds or notes; the use, lease, sale or other disposition of any railroad project or any other assets of the division; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue; notes issued in anticipation of the issuance of bonds, the agreement of the commissioner to do all things necessary for the authorization, issuance and sale of such bonds in such amounts that may be necessary for the timely retirement of the notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the division for operating, administrative or other expenses of the division; securing any bonds or notes by a trust agreement; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

(f) No person executing the bonds or notes is liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance.

§17-16F-18. Trustee for bondholders; contents of trust agreement.

(a) In the discretion of the commissioner, any railroad maintenance bonds or notes or railroad maintenance refunding bonds issued by them under this article may be secured by a trust agreement between the commissioner and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within or without this state.

(b) Any such trust agreement shall pledge or assign revenues of the State Rail Section to be received, but shall not convey or mortgage any railroad project in whole or in part. Any such trust agreement or any authorization providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the division in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the railroad project in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any railroad project, the custody, safeguarding, and application of all moneys and provisions for the employment of consulting engineers in connection with the construction or operation of such railroad project. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues shall furnish such indemnifying bonds or pledge such securities as are required by the division. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the commissioner deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any trust agreement may be treated as a part of the cost of the operation of the railroad project. Any trust agreement or

authorization of the issuance of railroad maintenance revenue bonds may provide the method whereby the general administrative overhead expenses of the division shall be allocated among the several projects acquired or constructed by it as a factor of the operating expenses of each such project.

§17-16F-19. Legal remedies of bondholders and trustees.

Any holder of railroad maintenance revenue bonds issued under the authority of this article or any of the appertaining coupons and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable authorization or trust agreement, may by civil action, mandamus, or other proceedings, protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the authorization of issuance of bonds, and may enforce and compel the performance of all duties required by this article, or by the trust agreement or authorization, to be performed by the commissioner, division or any employee, including the fixing, charging and collecting of sufficient rentals or other charges.

§17-16F-20. Bonds and notes not debt of state, county, municipality, or of any political subdivision; expenses incurred pursuant to article.

(a) Railroad maintenance revenue bonds and notes and railroad maintenance revenue refunding bonds issued under authority of this article and any coupons in connection therewith 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 of this state, and the holders or owners have no right to have taxes levied by the Legislature or taxing authority of any county, municipality, or any other political subdivision of this state for the payment of the principal or interest, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under authority of this article, which bonds or refunding bonds are payable solely from revenues

and funds pledged for their payment as authorized by this article. All bonds and notes shall contain on the face of a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county, municipality, or political subdivision, but are payable solely from revenues and funds pledged for their payment.

(b) All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under authority of this article. The division is not authorized to incur indebtedness or liability on behalf of or payable by the state or any county, municipality, or political subdivision.

§17-16F-21. Use of funds by division; restrictions.

All moneys, properties and assets acquired by the division, whether as proceeds from the sale of railroad maintenance revenue bonds or as revenues or other source which are attributable to a railroad project or purpose, shall be held by it in trust for the purposes of carrying out his or her powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys may at no time be commingled with other public funds. Such moneys, except as otherwise provided in any authorization of the issuance of railroad maintenance revenue bonds or in any trust agreement securing the same, or except when invested pursuant to §17-16F-23 of this code, shall be kept in appropriate depositories and secured as provided and required by law. The authorization of the issuance of bonds of any issue or the trust agreement securing bonds shall provide that any person to whom, or any banking institution or trust company to which, moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and the authorization or trust agreement provide.

§17-16F-22. Investment of funds by division.

Funds of the State Rail Section in excess of current needs, except as otherwise provided in any authorization for the issuance of railroad maintenance revenue bonds or in any trust agreement securing the same, may be invested by the West Virginia

Investment Management Board as authorized to invest under §12-6-1 et seq. of this code. Income from all such investments of moneys in any fund shall be credited to such funds as the commissioner determines, subject to the provisions of any authorization or trust agreement and such investments may be sold at such times as the commissioner, determines.

§17-16F-23. Rentals and other revenues from railroad projects; contracts and leases of division; cooperation of other governmental agencies; bonds of such agencies.

(a) The division shall charge, alter, and collect rates, rentals, or other charges for the use or services of any project, and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or a combination, desiring the use or services, and fix the terms, conditions, rates, rentals, or other charges for use or services. The rentals or other charges are not subject to supervision, or regulation by any other division, authority, department, commission, board, bureau, or agency of the state, and the contract may provide for acquisition by a person or governmental agency of all or any part of a railroad project for consideration payable over the period of the contract or otherwise as the division in its sole discretion determines to be appropriate, but subject to the provisions of any authorized issue of railroad maintenance revenue bonds or notes or railroad maintenance revenue refunding bonds of the division or any trust agreement securing the same. Any governmental agency which has power to construct, operate, and maintain railroad projects may enter into a contract or lease with the division whereby the use or services of any railroad project of the division will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by such governmental agency and the division.

(b) Any governmental agency or agencies shall cooperate with the division in the acquisition or construction of a railroad project and shall enter into such agreements with the division when necessary, facilitating cooperation and safeguarding the respective interests of the parties, which agreements shall provide for such contributions by the parties in such proportion as may be agreed

upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the division to the extent necessary or appropriate for purposes of the issuance of railroad maintenance revenue bonds by the commissioner. Any governmental agency may provide contributions as is required under the agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection, and by the payment of such appropriated money or the proceeds of such bonds or notes to the division pursuant to such agreements.

(c) Any governmental agency, pursuant to a favorable vote of the electors in an election held for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for a railroad project, whether or not the governmental agency at the time of such election had the authority to pay the proceeds from such bonds or notes issued in anticipation to the division as provided in this section, may issue such bonds or notes in anticipation of the issuance and pay the proceeds to the division in accordance with an agreement between such governmental agency and the division: *Provided*, That the legislative authority of the governmental agency finds and determines that the railroad project to be acquired or constructed by the division in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

§17-16F-24. Maintenance, operation, and repair of projects; reports to Governor and Legislature.

(a) Each railroad project, when constructed and placed in operation, shall be maintained, and kept in good condition by the division. Each project shall be operated by the division's employees

pursuant to a contract or lease with a governmental agency or person. All public or private property damaged or destroyed while carrying out the provisions of this article shall be restored or repaired to its original condition, or as nearly as practicable or adequate compensation made out of funds provided in accordance with the provisions of this article.

(b) As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the Governor and the Joint Committee on Government and Finance. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects. Any report under this section may be made electronically and paper copies may be provided upon request.

§17-16F-25. Railroad maintenance bonds lawful investments.

By the provisions of §12-6-1 et seq. of this code, notwithstanding any code section to the contrary, all railroad maintenance revenue bonds issued pursuant to this article are lawful investments for the West Virginia Investment Management Board and are also lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, insurance companies, including domestic for life and domestic not for life insurance companies.

§17-16F-26. West Virginia Commuter Rail Access Fund.

There is continued a special fund in the State Treasury known as the West Virginia Commuter Rail Access Fund. The fund shall be administered by the division and shall consist of appropriations by the Legislature. Subject to legislative appropriation, the division shall administer the fund to pay track access fees pursuant to agreement as required by this article. Balances in the fund at the end of any fiscal year shall not expire but shall be expended for those purposes in ensuing fiscal years.

§17-16F-27. State rail plan required.

(a) The division shall establish, administer, and coordinate a state plan for rail transportation and local rail services. In establishing and updating the plan, the division may request input from freight and rail passenger associations.

(b) The plan shall, at a minimum, comply with the provisions of the laws and regulations of the United States relating to capturing and administering federal moneys for rail transportation, local rail services, and intermodal facilities as deemed necessary by the division.

§17-16F-28. Additional powers and duties of division related to aeronautics, airports, and air navigation projects.

(a) The secretary shall appoint necessary staff to oversee and manage the facilities and operations of the aeronautics section. Staff are covered by the Department of Transportation merit based system and the Career, Classification, and Compensation Plan. The division shall encourage, foster, and assist in the development of aeronautics in this state and encourage the establishment of airports and air navigation facilities. The division shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics and shall act to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the division in developing aeronautics and aeronautics facilities in this state. The division is given the power and authority to make such policies as it may consider necessary and advisable for the public safety, governing the designing, laying out, locating, building, equipping, and operating of all airports and the conduct of all other phases of aeronautics.

§17-16F-29. State financial assistance for county, municipal and regional airports.

The division, out of any appropriation funds made by the Legislature or any funds at its disposal, may make funds available by grant or otherwise to counties, municipalities, and regional airport authorities, created under the provisions of chapter 8 of this code, for the planning, acquisition, construction, improvement,

maintenance, or operation of airports owned or operated or to be owned or operated by such counties, municipalities, or regional airport authorities. Acceptance of any moneys by any such county, municipality, or regional airport authority, shall constitute consent by the recipient that a reasonable use of such airport may be made, upon request of the division, by the United States, the state, or any of their respective agencies, including the National Guard of West Virginia for State purposes related or incidental to aeronautics. Such financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

§17-16F-30. Financial aid.

(a) The division shall cooperate with the United States, and any agency or department, in the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state and may accept federal aid either outright or by way of matching, in whole or in part, as required, and when funds for matching are available to the division, comply with the provisions of the laws and regulations of the United States for the expenditure of federal moneys upon such airports and other air navigation facilities.

(b) The division may accept, receive, and receipt for federal moneys and other moneys, either public or private, for and on behalf of this state, or any municipality, for the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether such work is to be done by the state or by such municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws, rules, or regulations of the United States. The division shall be designated as the agency of the state and shall act as agent of any municipality upon the request of such municipality, in accepting, receiving, and receipting for such moneys on its behalf for airports or other air navigation facility purposes, and in contracting for the planning, acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities, financed, either in whole or in part, by federal moneys. Any such municipality shall enter an agreement with the division prescribing the terms and

conditions of such agency in accordance with federal laws and regulations and with this article. Such moneys paid by the United States shall be retained by the state or said municipalities under such terms and conditions as may be imposed by the United States in making such grants.

(c) All contracts for the planning, acquisition, construction, improvement, maintenance, and operation of airports, or other air navigation facilities made by the division, either as the agent of the State or as the agent of any municipality, shall be made pursuant to the laws of this state: *Provided*, That where the planning, acquisition, construction, improvement, maintenance, and operation of any airport or other air navigation facility is financed wholly or partially with federal moneys, the division, as agent of the State or of any municipality, shall execute contracts in the manner prescribed by the federal laws, rule, or regulations, notwithstanding State law to the contrary.

(d) All moneys accepted for disbursement by the division pursuant to this section shall be deposited in the State Treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the State in trust. All such moneys are appropriated for the purposes for which the same were made available and shall be expended in accordance with federal laws and regulations and with the provisions of this article. The division shall, whether acting for this state or the agent of any municipality, when requested by the United States or any agency or department or by the state or municipality for which the money has been made available, disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

(e) The state or municipality shall cooperate with the United States, and any agency or department, in the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state and shall accept federal aid, either by way of outright grant or by matching the same, in whole or in part, as required to comply with the provisions of the laws and regulations of the United States for the expenditure

of federal moneys upon such airports and other air navigation facilities.

§17-16F-31. Establishment and operation of state airports.

(a) The commissioner is authorized on behalf of and in the name of the State, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, maintain, and operate airports and air navigation facilities within the state. For these purposes the director may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire such property, real or personal, as is necessary to permit safe and efficient operation of the airports and air navigation facilities. In like manner, the director may acquire existing airports and air navigation facilities: *Provided*, That he or she may not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of the municipality.

(b) The commissioner may by sale, lease, or otherwise, dispose of property, airport, air navigation facility, or portion thereof or interest therein. Any disposal by lease shall be made pursuant to the terms of §8-28-7 of this code. Any disposal by sale or otherwise shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposal to any municipality or state government or the United States for aeronautical purposes incident thereto the sale or other disposal may be effected in such manner and upon such terms as the director determines are in the best interest of the state.

(c) Nothing contained in this article shall be construed to limit any right, power, or authority of the State or a municipality to regulate airport hazards by zoning.

(d) The commissioner may exercise any powers granted by this section jointly with any municipalities or agencies of the state government, with other states or their municipalities, or with the United States.

(e) In the condemnation of property authorized by this section, the director shall proceed in the name of the State in the manner provided by §54-1-1 *et seq.* of this code.

(f) The acquisition of any lands or interests therein pursuant to this article, the planning, acquisition, establishment, construction, improvement, maintenance, and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipalities, and the exercise of any other powers herein granted to the director are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the State in the manner and for the purposes enumerated in this article shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

§17-16F-32. Use of state and municipal facilities and services.

The division shall use the facilities and services of other agencies of the state and of the municipalities to the utmost extent possible, and such agencies and municipalities shall make available their facilities and services in furtherance of aeronautics in this state.

§17-16F-33. Disposition of fees.

All fees or other moneys collected by the division under the provisions of this article shall be paid into the State Treasury in the manner provided in §12-2-1 *et seq.* of this code, and shall be deposited in a separate account and be used and expended only to carry out the provisions of this article. The fees or other moneys so paid into the State Treasury shall constitute and be treated as an excepted fund, and all the provisions of §12-2-2 of this code, applicable to the funds excepted from the general provisions for the deposit and payment of state funds, shall be applicable to the fund derived from collections made pursuant to the provisions of this article.

§17-16F-34. Severability.

If any provision of this article or the application to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are declared to be severable.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**ARTICLE 2A. STATE AERONAUTICS COMMISSION.****§29-2A-1. Definitions.**

[Repealed].

§29-2A-2. Short title; continuation of commission; membership and compensation; quorum.

[Repealed].

§29-2A-3. Powers and duties of commission.

[Repealed].

§29-2A-4. Organization of commission; meetings; reports; offices.

[Repealed].

§29-2A-5. Director of aeronautics; appointment, qualifications, compensation, powers and duties; staff.

[Repealed].

§29-2A-6. State financial assistance for county, municipal, and regional airports.

[Repealed].

§29-2A-7. Federal aid.

[Repealed].

§29-2A-8. Establishment and operation of state airports.

[Repealed].

§29-2A-10. Public purpose of activities.

[Repealed].

§29-2A-11. Operation of aircraft while under influence of alcohol, controlled substances or drugs; criminal penalties.

[Repealed].

§29-2A-11a. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

[Repealed].

§29-2A-11b. Preliminary analysis of breath to determine alcoholic content of blood.

[Repealed].

§29-2A-11c. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.

[Repealed].

§29-2A-11d. Interpretation and use of chemical test.

[Repealed].

§29-2A-11e. Right to demand test.

[Repealed].

§29-2A-11f. Fee for withdrawing blood sample and making urine test; payment of fees.

[Repealed].

§29-2A-12. Operation of aircraft at low altitude or in careless and reckless manner; penalty.

[Repealed].

§29-2A-13. Unauthorized taking or operation of aircraft; penalty.

[Repealed].

§29-2A-14. Federal license required for operation of aircraft.

[Repealed].

§29-2A-20. Enforcement of aeronautics laws.

[Repealed].

ARTICLE 18. WEST VIRGINIA STATE RAIL AUTHORITY.**§29-18-1. Short title.**

[Repealed].

§29-18-2. Declaration of policy and responsibility; purpose and intent of article; findings.

[Repealed].

§29-18-3. Definitions.

[Repealed].

§29-18-4. West Virginia state rail authority continued; organization of authority; appointment of members; term of office, compensation and expenses; director of authority; termination date.

[Repealed].

§29-18-4a. Supervision of West Virginia State Rail Authority; executive director's compensation.

[Repealed].

§29-18-5. Authority may construct, maintain, etc., railroad maintenance projects.

[Repealed].

§29-18-6. Powers, duties and responsibilities of authority generally.

[Repealed].

§29-18-7. Operations; purchases.

[Repealed].

§29-18-8. Creation of railroad maintenance authority fund.

[Repealed].

§29-18-9. Expenditure of funds for study and engineering of proposed projects.

[Repealed].

§29-18-10. Authority empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

[Repealed].

§29-18-11. Trustee for bondholders; contents of trust agreement.

[Repealed].

§29-18-12. Legal remedies of bondholders and trustees.

[Repealed].

§29-18-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.

[Repealed].

§29-18-14. Use of funds by authority; restrictions thereon.

[Repealed].

§29-18-15. Investment of funds by authority.

[Repealed].

§29-18-16. Rentals and other revenues from railroad projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.

[Repealed].

§29-18-17. Maintenance, operation and repair of projects; reports by authority to Governor and Legislature.

[Repealed].

§29-18-18. Railroad maintenance bonds lawful investments.

[Repealed].

§29-18-19. Exemption from taxation.

[Repealed].

§29-18-20. Acquisition of property by authority; governmental agencies authorized to convey, etc., property.

[Repealed].

§29-18-21. Property of public utilities and common carriers.

[Repealed].

§29-18-22. Financial interest in contracts prohibited; penalty.

[Repealed].

§29-18-23. Meetings and records of authority to be kept public.

[Repealed].

§29-18-24. Creation of the West Virginia Commuter Rail Access Fund.

[Repealed].

§29-18-25. State rail plan required.

[Repealed].

The bill (Eng. Com. Sub. for H. B. 4492), as amended, was then ordered to third reading.

Eng. House Bill 4496, Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4497, Extending the regional jail per diem through July 1, 2023.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-1. Definitions.

As used in this article:

(1) "Administrator" means the State Treasurer.

(2) "Apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.

(3) "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, safe deposit company, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

(4) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic mail" means a communication by electronic means which is automatically retained and stored and may be readily accessed or retrieved.

(5) "Financial organization" means a savings and loan association, bank, banking organization, or credit union.

(6) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this article.

(7) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and workers' compensation insurance.

(8) "Mineral" means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and non-fissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by the law of this state.

(9) "Mineral proceeds" means amounts payable for the extraction, production or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

(i) For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

(ii) For the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

(iii) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(10) "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

(11) "Owner" means a person who has a legal or equitable interest in property subject to this article or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property.

(12) "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Property" means tangible personal property described in section three of this article or a fixed and certain interest in intangible personal property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency or instrumentality, and all income or

increments therefrom. The term includes property that is referred to as or evidenced by:

(i) Money, virtual currency, check, draft, warrant for payment issued by the State of West Virginia, deposit, interest, or dividend;

(ii) Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

(iii) Stock or other evidence of ownership of an interest in a business association or financial organization;

(iv) A bond, debenture, note, or other evidence of indebtedness;

(v) Money deposited to redeem stocks, bonds, coupons, or other securities or to make distributions;

(vi) An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and

(vii) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

(16) "United States savings bond" means property, tangible or intangible, in the form of a savings bond issued by the United

States Treasury whether in paper form, electronic or paperless form, along with the proceeds thereof.

(17) "Utility" means a person who owns or operates for public use any plant, equipment, real property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas as defined in §24-1-2 of this code.

"Virtual currency" means a digital representation of value, including cryptocurrency, used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States. The term does not include:

(A) The software or protocols governing the transfer of the digital representation of value;

(B) Game-related digital content; or

(C) A loyalty card or gift card.

§36-8-2. Presumptions of abandonment.

(a) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) Traveler's check, 15 years after issuance;

(2) Money order, seven years after issuance;

(3) Stock or other equity interest in a business association or financial organization, including a security entitlement under article eight of the uniform commercial code, five years after the earlier of: (i) The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner; or (ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(4) Debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, ~~five~~ three years after the date of the most recent interest payment unclaimed by the apparent owner;

~~(5) A noninterest bearing demand, savings, or time deposit, including a deposit that is automatically renewable, five years after the earlier of maturity or the date of the last indication by the owner of interest in the property; an interest bearing demand, savings, or time deposit including a deposit that is automatically renewable, seven years after the earlier of maturity or the date of the last indication by the owner of interest in the property. A deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder~~ A demand, savings, or time deposit, including a deposit that is automatically renewable, five years after the maturity of the deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

(6) Money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(7) Gift certificate, three years after December 31, of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be 60 percent of the certificate's face value;

(8) Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(9) Property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;

(10) Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(11) Property held by a court, government, governmental subdivision, agency, or instrumentality, one year after the property becomes distributable;

(12) Wages or other compensation for personal services, one year after the compensation becomes payable;

(13) Deposit or refund owed to a subscriber by a utility, ~~two~~ one year after the deposit or refund becomes payable;

(14) Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(15) Warrants for payment issued by the State of West Virginia which have not been presented for payment, within six months of the date of issuance;

(16) All funds held by a fiduciary, including the state Municipal Bond Commission, for the payment of a note, bond, debenture, or other evidence or indebtedness, ~~five~~ three years after the principal maturity date, or if such note, bond, debenture, or evidence of indebtedness is called for redemption on an earlier date, then the redemption date, such premium or redemption date to also be applicable to all interest and premium, if any, attributable to such note, bond, debenture, or other evidence of indebtedness; ~~and~~

(17) Any virtual currency held or owing by any banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity, three years after the owner's last indication of interest in the property; and

~~(17)~~ (18) All other property, ~~five~~ three years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(b) At the time that an interest is presumed abandoned under subsection (a) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this section, the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(d) An indication of an owner's interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(3) The making of a deposit to or withdrawal from a bank account;

(4) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions; and

(5) For demand, savings and time deposits held by a financial organization, any indication of the owner's interest in any demand, savings and time deposit held by the financial organization for that owner is an indication of the owner's interest in all demand, savings, and time deposits held by that financial organization.

(e) Property is payable or distributable for purposes of this article notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

§36-8-8. Payment or delivery of abandoned property.

(a) Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by §36-8-7 of this code, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Property held in a safe deposit box or other safekeeping depository may not be delivered to the administrator until 120 days after filing the report required by §36-8-7 of this code.

(b) If the property reported to the administrator is a security or security entitlement under article eight of the uniform commercial code, the administrator is an appropriate person to make an indorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security

or the security entitlement in accordance with article eight of the uniform commercial code.

(c) If the holder of property reported to the administrator is the issuer of a certificated security, the administrator has the right to obtain a replacement certificate pursuant to article eight, section four hundred eight of the uniform commercial code, but an indemnity bond is not required.

(d) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with section 10 of this article.

(e) If the property reported is virtual currency, the holder shall liquidate the virtual currency anytime within 30 days of filing the report and remit the proceeds to the administrator. The owner shall have no recourse against either the holder or the administrator for any gain in value after liquidation.

§36-8-10. Custody by state; recovery by holder; defense of holder.

(a) In this section, payment or delivery is made in "good faith" if:

(1) Payment or delivery was made in a reasonable attempt to comply with this article;

(2) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned: *Provided*, That no fiduciary shall be deemed to be in breach of a fiduciary obligation for purposes of this section by virtue of paying or delivering property to the administrator prior to the expiration of the period for holding unclaimed or abandoned property contained in the instrument under which such fiduciary is acting; and

(3) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the administrator in good faith is relieved of all liability arising thereafter with respect to the property.

(c) A holder who has paid money to the administrator pursuant to this article may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under §36-8-19(a) of this code.

(d) A holder who has delivered property other than money to the administrator pursuant to this article may reclaim the property if it is still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

(e) The administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

(f) If a holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any

liability on the claim resulting from payment or delivery of the property to the administrator.

(g) Property removed from a safe deposit box or other safekeeping depository is received by the administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges in an amount not to exceed \$150. The administrator shall reimburse the holder ~~out of the proceeds remaining after deducting the expense incurred by the administrator in selling the property~~ after the property has been claimed and returned to the apparent owner using funds in the Unclaimed Property Fund.

§36-8-13. Deposit of funds

(a) The administrator shall record the name and last known address of each person appearing from the holders reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company, and the amount due.

(b) The Unclaimed Property Fund is continued. The administrator shall deposit all funds received pursuant to this article in the Unclaimed Property Fund, including the proceeds from the sale of abandoned property under §36-8-12 of this code. The administrator may invest the Unclaimed Property Fund with the West Virginia Board of Treasury Investments or the Investment Management Board and all earnings shall accrue to the fund and are available for expenditure in accordance with the article. In addition to paying claims of unclaimed property duly allowed, the administrator may deduct the following expenses from the Unclaimed Property Fund:

(1) Expenses of the sale of abandoned property;

(2) Expenses incurred in returning the property to owners, including without limitation the costs of mailing and publication to locate owners;

(3) Reasonable service charge; and

(4) Expenses incurred in examining records of holders of property and in collecting the property from those holders.

(c) The Unclaimed Property Trust Fund is continued within the State Treasury. The administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of Treasury Investments and all earnings shall accrue to the fund and are available for expenditure in accordance with this article. After deducting the expenses specified in subsection (b) of this section and maintaining a sum of money from which to pay claims duly allowed, the administrator shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

~~(d) (1) On July 1, 2009, the unclaimed property administrator shall transfer the amount of \$8 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund~~

~~(2) On or before December 15 of each year, notwithstanding any provision of this code to the contrary, the administrator shall may transfer the sum of \$1 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Jumpstart Savings Trust Fund, until the an actuary certifies there are sufficient funds to pay out all contracts satisfy all obligations and administrative expenses of the Jumpstart Savings Program.~~

~~(e) On or before June 1, 2007, the unclaimed property administrator shall transfer the amount of \$2 million from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the deferred compensation matching program for state employees. On or before June 1, 2008, the unclaimed property administrator shall transfer the amount of \$1 million from the Unclaimed Property Trust Fund to the Deferred~~

~~Compensation Matching Fund for operation of the matching program.~~

~~(f) On or before June 1, 2013, the unclaimed property administrator shall transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund for the purpose of satisfying any amounts due as of April 27, 2012 to policemen's and firemen's pension and relief funds in accordance with section fourteen d, article three, chapter thirty three of this Code~~

~~(g)~~ (e) After transferring any money required by subsections ~~(d) through (f)~~ subsection (d) of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust Fund to the General Revenue Fund.

§36-8-15. Filing claim with administrator; handling of claims by administrator.

(a) A person, excluding another state, claiming property paid or delivered to the administrator may file a claim on a form prescribed by the administrator and verified by the claimant.

(b) Within 90 days after a claim is filed, the administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the administrator or maintain an action under section 16 of this article.

(c) Within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the administrator to the claimant.

(d) The administrator may waive the requirement in subsection (a) and may pay or deliver property directly to a person who does not file a claim if:

(1) The person receiving the property or payment is shown to be the apparent owner included on a report filed pursuant to this act;

(2) The administrator reasonably believes the person is entitled to receive the property or payment; and

(3) The property has a value of less than \$5,000.

§36-8-25. Records of abandoned property.

Records of abandoned property kept by the administrator are available for inspection and copying only by an owner of such property as to the particular property he or she owns, or by his or her personal representative, next of kin, attorney at law, or such person entitled to inherit from the owner conducting a legal audit thereof. These records are exempt from the provisions of the West Virginia Freedom of Information Act, chapter 29B of this code: *Provided*, That nothing in this section prevents the administrator from disclosing the monetary value of an unclaimed property or the general nature or type of said property to any person that the administrator reasonably believes to be the apparent owner of said property or a person entitled to claim the property on the apparent owner's behalf.

§36-8-33. Report by administrator.

(a) Not later than six months after the end of the state's fiscal year, the administrator shall compile and publish a report on the West Virginia Treasury website. The report must contain the following information about property deemed unclaimed for the preceding fiscal year for the state:

(1) The total amount and value of all property paid or delivered under this act to the administrator, separated into:

(A) The portion voluntarily paid or delivered; and

(B) The portion delivered as the result of an examination under the act.

(2) The total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator under this act.

(b) The report required under subsection (a) of this section is a public record and is subject to disclosure pursuant to the West Virginia Freedom of Information Act, Chapter 29B of this code.

The bill (Eng. Com. Sub. for H. B. 4511), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4559, Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4563, Provide for a license plate for auto mechanics.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 4566, Creating the Economic Enhancement Grant Fund.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 4568, To allow phased rehabilitations of certified historic structures.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4629, Relating to procedures for certain actions against the state.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 17. PROCEDURES FOR CERTAIN ACTIONS AGAINST THE STATE.

§55-17-3. Preliminary procedures; service on Attorney General; notice to the Legislature.

(a)(1) Notwithstanding any provision of law to the contrary, at least 30 days prior to the institution of an action against a ~~government~~ governmental agency, the complaining party or parties ~~must~~ shall provide the chief officer of the ~~government~~ governmental agency and the Attorney General written notice, by certified mail, return receipt requested, of the alleged claim and the relief desired. Upon receipt, the chief officer of the ~~government~~ governmental agency shall ~~forthwith~~ immediately forward a copy of the notice to the President of the Senate and the Speaker of the House of Delegates. The provisions of this subdivision do not apply in actions seeking injunctive relief where the court finds that irreparable harm would have occurred if the institution of the action was delayed by the provisions of this subsection.

(2) The written notice to the chief officer of the ~~government~~ governmental agency and the Attorney General required by subdivision (1) of this subsection is considered to be provided on the date of mailing of the notice by certified mail, return receipt requested. If the written notice is provided to the chief officer of the ~~government~~ governmental agency as required by subdivision (1) of this subsection, any applicable statute of limitations is tolled for 30 days from the date the notice is provided and, if received by the ~~government~~ governmental agency as evidenced by the return receipt of the certified mail, for 30 days from the date of the returned receipt.

(3) A copy of any complaint filed in an action as defined in §55-17-2 of this code ~~section two of this article~~ shall be served on the Attorney General.

(b) (1) Notwithstanding any procedural rule or any provision of this code to the contrary in an action instituted against a ~~government~~ governmental agency that seeks a judgment, as defined in ~~section two of this article~~ §55-17-2 of this code, the chief officer of the ~~government~~ governmental agency which is named a party to the action shall, upon receipt of service, ~~forthwith~~ immediately give written notice thereof, together with a copy of the complaint filed, to the President of the Senate and the Speaker of the House of Delegates.

(2) Upon request, the chief officer of the ~~government~~ governmental agency shall furnish the President of the Senate and Speaker of the House with copies of pleadings filed and discovery produced in the proceeding and other documents, information, and periodic reports relating to the proceeding as may be requested.

(3) The chief officer of a ~~government~~ governmental agency who fails without good cause to comply with the provisions of this subsection is guilty of misfeasance. This subsection does not require a notice or report to the President of the Senate and the Speaker of the House that no action has been instituted or is pending against a governmental agency during a specified period.

(c) The requirements for notice and delivery of pleadings and other documents to the President of the Senate or Speaker of the House of Delegates pursuant to the provisions of this section do not constitute a waiver of any constitutional immunity or protection that proscribes or limits actions, suits, or proceedings against the Legislature or the State of West Virginia.

(d) The exercise of authority granted by the provisions of this section does not subject the Legislature or any member of the Legislature to any terms of a judgment.

(e) If 90 days elapse after service of notice required by subsection (a) of this section has been effected and action has not been instituted, then the notice shall be considered to have expired, and before an action may be instituted, the complaining party or parties must provide new notice as required by subsection (a) of this section which shall be accompanied by a second or subsequent notice fee to the attorney general and by a second or subsequent notice fee to the chief officer of the governmental agency: Provided, That no further tolling of any applicable statute of limitations shall occur during any second or subsequent notice.

§55-17-3a. Legislature and its presiding officers never to be named as parties to a civil action in court.

(a) Article V of the Constitution of West Virginia provides that the legislative, executive, and judicial departments of the government of West Virginia shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others.

(b) It is an unconstitutional violation of the separation of powers mandated by Article V of the Constitution of West Virginia for:

(1) Any court of this state to issue a writ of mandamus, a writ of prohibition, or an injunction against the Legislature; or

(2) Any person to name the Legislature or the presiding officers thereof, in any action challenging the constitutionality of a statute.

(c) Pursuant to the separation of powers required by Article V of the West Virginia Constitution, if any suit is filed seeking relief under subdivision (1), subsection (a) of this section, or if any suit is filed naming the legislature, or the presiding officers thereof, in violation of the provisions of subdivision (2), subsection (a) of this section, the court must, upon motion, summarily dismiss the action, or dismiss the parties improperly joined.

(c) This section shall be applied retrospectively and retroactively to all actions pending at the time of the enactment of this section.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4629) was reported by the Clerk and adopted:

On page two, section three, line forty-three, before the words "to the attorney general" by inserting the words "of \$250";

And,

On pages two and three, section three, lines forty-three and forty-four, before the words "to the chief officer" by inserting the words "of \$250".

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4629), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4634, Relating to occupational licensing or other authorization to practice.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4636, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

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 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification, and refurbishing services to any aircraft, or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of ~~such~~ the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, 11-13-2b, 11-13-2c, 11-13-2d, 11-13-2e, 11-13-2g, 11-13-2h, 11-13-2i, and 11-13-2j of this code, as ~~such~~ those rates were

in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.* of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any ~~such~~ company maintains its office or offices in this state, whether ~~such~~ the income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 ~~shall not be~~ is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-2E-1 *et seq.* of this code, ~~shall apply~~ applies only to gross income derived from contracts entered into after the effective date of ~~such~~ the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) *Exemptions.* — A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with ~~such~~ legislative ~~regulations~~ as rules as prescribed by the Tax Commissioner may prescribe. It ~~being~~ is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or

gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, ~~such the governing body shall have the authority to~~ may offer tax credits from ~~such the~~ tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of ~~such the~~ tax, which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) *Timely payment.* — Payments for taxes due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided,* That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

§8-13-13. Special charges for municipal services.

(a) Notwithstanding any charter provisions to the contrary, a municipality which furnishes any essential or special municipal

service, including, but not limited to, police and fire protection, parking facilities on the streets or otherwise, parks and recreational facilities, street cleaning, street lighting, street maintenance and improvement, sewerage and sewage disposal, and the collection and disposal of garbage, refuse, waste, ashes, trash, and any other similar matter, has plenary power and authority to provide by ordinance for the installation, continuance, maintenance, or improvement of the service, to make reasonable regulations of the service, and to impose by ordinance upon the users of the service reasonable rates, fees, and charges to be collected in the manner specified in the ordinance.

(b) Any sewerage and sewage disposal service and any service incident to the collection and disposal of garbage, refuse, waste, ashes, trash, and any other similar matter is subject to the provisions of chapter 24 of this code.

(c) A municipality shall not have a lien on any property as security for payments due under subsection (a) of this section except as provided in subsection (d) of this section.

(d) A municipality ~~has authority to~~ may enact an ordinance, pursuant to this section, permitting it to file a lien on real property located within the municipal corporate limits for unpaid and delinquent fire, police, or street fees. The ordinance must provide an administrative procedure for the municipality's assessment and collection of the fees. The administrative procedure must require that, before any lien is filed, the municipality will give notice to the property owner, by certified mail, return receipt requested, that the municipality will file the lien unless the delinquency is paid by a date stated in the notice, which must be no less than 90 days from the date the notice is mailed. The administrative procedure must include the right to appeal to the circuit court of the county in which the real property is located. The circuit court shall consider the appeal under its general authority, including but not limited to §51-2-2(f) of this code.

(e) Notwithstanding the provisions of §8-11-4 of this code, any ordinance enacted or substantially amended under the provisions of this section shall be published as a Class II legal advertisement

in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for the publication is the municipality.

(f) In the event 30 percent of the qualified voters of the municipality, by petition duly signed by them in their own handwriting and filed with the recorder of the municipality within 45 days after the expiration of the publication, protest against the ordinance as enacted or amended, the ordinance shall not become effective until it is ratified by a majority of the legal votes cast by the qualified voters of the municipality at a regular municipal election or special municipal election, as the governing body directs. Voting shall not take place until after notice of the submission is given by publication as provided in subsection (e) of this section.

(g) The powers and authority granted to municipalities and to the governing bodies of municipalities in this section are in addition and supplemental to the powers and authority named in any charters of the municipalities.

(h) Notwithstanding any other provisions of this section, if rates, fees, and charges provided in this section are imposed by the governing body of a municipality for the purpose of replacing, and in amounts approximately sufficient to replace in its general fund amounts appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to an election duly called and held under the Constitution and laws of the state to authorize the issuance and sale of the municipality's general obligation bonds for public improvement purposes, the call for the election shall state that the governing body of the municipality proposes to impose rates, fees, and charges in specified amounts under this section for the use of one or more of the services specified in subsection (a) of this section, which shall be related to the public improvement proposed to be made with the proceeds of the bonds, no notice, publication of notice, or referendum, or election or other condition or prerequisite to the imposition of the rates, fees, and charges shall be required or necessary other than the legal requirements for issuance and sale of the general obligation bonds.

(i) Payments for rates, fees, and charges due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

The bill (Eng. Com. Sub. for H. B. 4636), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4662, Relating to licensure of Head Start facilities in this state.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-115a. Head Start program licenses.

(a) A Head Start program in good standing with the United States Department of Health and Human Services pursuant to 42 USC §9381 *et seq.* may request to be deemed a licensee to operate a child care program for the sole purpose of utilizing the West Virginia Clearance for Access: Registry and Employment Screenings program. At the discretion of the secretary, a deemed license may not permit the licensee to access the other services provided by the Bureau for Family Assistance as it relates to the specific deemed child care license.

(b) The section may not be construed to prevent the department from investigating complaints regarding the health, safety, or welfare of children.

