

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
FORTY-SIXTH DAY

Charleston, West Virginia, Saturday, March 25, 2017

The Senate met at 10 a.m.

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

Prayer was offered by the Honorable Ronald F. Miller, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chandler Swope, a senator from the sixth district.

Pending the reading of the Journal of Friday, March 24, 2017,

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

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

The Clerk presented the following communication from a state agency as required by the provisions of law:

Environmental Protection, Department of

Special Reclamation Fund Advisory Council (§22-1-17)

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, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 306, Supplemental appropriation of federal funds from Treasury to Workforce West Virginia.

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 2180—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-3-14a, relating to authorizing the issuance of special “In God We Trust” and “Friends of Coal” motor vehicle registration plates.

Referred to the Committee on Transportation and Infrastructure.

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

Eng. Com. Sub. for House Bill 2208—A Bill to amend and reenact §8A-3-3 of the Code of West Virginia, 1931, as amended, relating to authorizing counties and municipalities to establish a joint airport hazard comprehensive plan for the purpose of satisfying requirements of federal aviation law, protecting the public safety or preventing hazardous conditions; describes requirements for written agreements; requires submission of a plan and public hearing; providing for modifications to written agreements; and providing just compensation for diminution of property value.

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 2366—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-25, relating to the selling of a certain state owned health care facility and appurtenances by the Secretary of the Department of Health and Human Resources; exempting certain laws; creating a fund; implementing a benefits package for employees; and providing statutory construction.

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 2475—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §14-1A-1, §14-1A-2 and §14-1A-3, all relating to authorizing the establishment of a Debt Resolution Services Division within the Auditor’s office; providing for administration of division and the offset of a payment due to a vendor, contractor or taxpayer from the state to satisfy an outstanding obligation owed by them to the state; authorizing the administration of the United States Treasury Offset Program; providing for responsibilities of the State Tax Commissioner and spending units of the state; providing for the adoption of procedures, forms, and agreements; and directing the deposit of moneys offset.

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 2494—A Bill to amend and reenact §18-2E-4 of the Code of West Virginia, 1931, as amended, relating to providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request

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, 2017, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2524—A Bill to repeal §10-5-2a of the Code of West Virginia, 1931, as amended; to repeal §18-2I-3 of said code; to repeal §18A-3-2d of said code; to repeal §18A-3A-1, §18A-3A-2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code; to repeal §18B-1-5a, §18B-11-4 and §18B-11-6 of said code; to amend and reenact §4-13-2 of said code; to amend and reenact §5-26A-3 of said code; to amend and reenact §5B-2C-6 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §18-2I-1, §18-2I-2 and §18-2I-4 of said code; to amend and reenact §18-10A-1, §18-10A-2, §18-10A-3, §18-10A-6a and §18-10A-12 of said code; to amend and reenact §18-10K-2, §18-10K-5 and §18-10K-6 of said code; to amend and reenact §18-30-4 of said code; to amend and reenact §18A-2-9 and §18A-2-12 of said code; to amend and reenact §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code; to amend and reenact §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-5-2a of said code; to amend and reenact §18B-16-5 and §18B-16-8 of said code; to amend and reenact §18B-18B-1 of said code; and to amend and reenact §29-24-3 and §29-24-5 of said code, all relating to revising the processes through which professional development is delivered for those who provide public education in this state, including improvement of the focus on school-level continuous improvement processes led by the principal, generally; eliminating administrative offices, duplicative programs and obsolete provisions; repealing provisions related to creation and duties of distance learning coordinating council; repealing provisions related to annual state board professional development master plan; repealing provisions related to beginning principal internships; repealing provisions related to center for professional development and principals academy curriculum; repealing provisions related to center for development professional development project; repealing provisions related to principals academy establishment, mission, required attendance and employment of coordinator; repealing provisions related to pilot program of delivering educational services via distance learning; repealing provisions related to creation of depositories for assistive devices and services at two colleges or universities; repealing provisions creating the National Institute For Teaching Excellence and its governing board; modifying membership of Sesquicentennial of the American Civil War Commission; modifying membership of Commission for National and Community Service; removing Department of Education and the Arts as option to provide technical support to the Academy of Science and Technology in preparation of annual report; eliminating Department of Education and the Arts as executive department headed by secretary; transferring Division of Culture and History and Division of Rehabilitation Services to Department of Commerce; making Educational Broadcasting Authority and Library Commission each an independent agency within executive branch; eliminating salary of Secretary of Education and the Arts; modifying scope and goals of the system for coordination and delivery of professional development to be instituted by state Board of Education; modifying legislative findings with respect to professional development; eliminating requirement for state Board of Education master plan for professional development; requiring state Board of Education rule to include process for aggregating school and system strategic plan information to assist design and delivery of professional development; replacing references to the Secretary and the Department of Education and the Arts in rehabilitation and

vocational services related statutes; modifying membership of Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board; transferring fund administration to Department of Commerce; modifying membership of College Prepaid Tuition and Savings Program Board; including instructional leadership among the responsibilities of principals and requiring course work in instructional leadership and related topics as prerequisite for administrative certification; moving from a precertification requirement to a preemployment requirement that principals, assistant principals and administrators complete education and training in evaluation skills; deleting provisions proscribing limitations on certain rights and privileges of principals and assistant principals as teachers; removing requirements for interreacton between state Board Of Education and Center for Professional Development regarding performance evaluations; removing proscription of issuance or renewal of certain administrative certificate; removing requirement for state Board Of Education consultation with Secretary of Education and Arts and Chancellor for Higher Education prior to exercise of authority over education; adding within standards for education of professional educators requirement providing for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America; authorizing state Board of Education cooperation with regional education service agencies for selected phases of preparation programs and expenditure of funds; removing requirement for state Board of Education to consult with Secretary of Education and the Arts and the Chancellor of Higher Education; removing provisions related to required training and professional development of principals through principals academy; adding instructional leadership and management techniques to required minimum standards for rule governing training of principals; removing language relating to waivers, ineligibility, progress tracking and expenses relating to training of principals; requiring county professional staff development councils to base proposals for staff development on analysis of individual and collective need indicated in school's strategic plans; incorporating principals development in the provisions for a comprehensive system to improve teaching and learning; making legislative finding that professional development resources must be focused rather than increased; removing obsolete provisions related to phased implementation of provisions for professional personnel evaluations; eliminating requirement for five percent of evaluations to be based on state summative assessment and increasing percent based on evidence of student learning by five percent; incorporating principals into the comprehensive system of support for improved professional performance; requiring deficiencies identified through personnel evaluations to be incorporated in strategic plans for continuous improvement; removing language requiring posting and other provisions relating to employment; restricting certain appropriations for certain activities; modifying membership of Higher Education Policy Commission; modifying membership of Workforce Development Initiative Program Advisory Committee; modifying process for approval of transfers of amounts between items of appropriation or special accounts of institutions of higher education; updating agency references and removing Secretary of Education and the Arts with respect to rural health initiative; modifying membership of Science and Research Council; transferring certain references and responsibilities to Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities Board to Secretary of Commerce; directing the adoption and promulgation of rules and guidelines; and making consequential changes incident to the elimination of agencies or programs or the modification of duties, responsibilities and functions.

Referred to the Committee on Education; 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 2679—A Bill to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5 of said code, all relating to the possession of firearms in parks and park facilities generally; prohibiting county parks and recreation commissions from promulgating or enforcing rules which prohibit possession of firearms in parks; providing magistrate courts with concurrent jurisdiction; altering antiquated language concerning county courts to county commission; prohibitions on carrying a firearm in state parks, state forests, state wildlife management areas or state rail trails; and providing exceptions for self-defense.

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 2702—A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to documentation of unexcused absences from compulsory school attendance; limiting excused absences for personal illness or injury in the family to those of student's parent, guardian or custodian and requiring confirming statement from medical provider; requiring all documentation related to absences be provided to school no later than three days of occurrence; authorizing notice in the case of three unexcused absences to be made by means other than written; removing provision for designated representative of principal for conference on unexcused absences and clarifying responsibility of administrative head or other chief administrator of school for meeting; and making other technical clarifications.

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 2709—A Bill to amend and reenact §8-38-9 of the Code of West Virginia, 1931, as amended, relating to the Legislature's authorizing the City of South Charleston to levy a special district excise tax for the benefit of the South Charleston Park Place Economic Opportunity Development District.

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 2734—A Bill to adding thereto a new section, designated §11-5-15, all relating to authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment rental inventory.

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 2774—A Bill to amend and reenact §11-6H-2 of the Code of West Virginia, 1931, as amended; relating to defining "special aircraft property" to include certain parts, materials or items used in the construction or repair of aircraft, aircraft engines or components of aircraft.

At the request of Senator Ferns, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, 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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2805—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

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

House Concurrent Resolution 90—Requesting the Joint Committee on Government and Finance authorize a study on the feasibility of light fidelity (“Li-Fi”), a bidirectional, high-speed and fully networked wireless communication technology similar to Wi-Fi, as a possible solution to West Virginia’s broadband access limitation.

Referred to the Committee on Rules.

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

House Concurrent Resolution 91—Requesting the Department of Highways to name Bridge Number 30-3/5-2.58 (30A012) (37.81677, -82.25903), locally known as Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Fork in Mingo County, the “Alleen Ledson 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 92—Requesting the Division of Highways to name that portion of West Virginia Route 16, beginning at mile marker 37.50 and ending at mile marker 40.92, the “U.S. Army SGT Eugene Dawson Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 24, 2017, he had approved **Enr. Senate Bill 231**.

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 March, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 2300), Regulating step therapy protocols.

(Com. Sub. for H. B. 2678), Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions.

And,

(H. B. 2766), Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund.

Respectfully submitted,

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

Senator Hall, 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 38 (originating in the Committee on Economic Development), Creating 5-year tax credit for new businesses locating on post-mine sites.

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

Com. Sub. for Com. Sub. for Senate Bill 38 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for businesses locating on post coal mine sites; defining terms; setting eligibility requirements for credit; establishing amount of tax credit allowed; establishing how credit may be applied; and providing rulemaking ability.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 57, Continuing personal income tax adjustment for certain retirees.

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

Com. Sub. for Senate Bill 57 (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 238, Increasing tax credits allowed for rehabilitation of certified historic structures.

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

Com. Sub. for Senate Bill 238 (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-8a of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a of said code, all relating to increasing the tax credits allowed for rehabilitation of certified historic structures from ten percent to twenty-five percent of expenditures; and establishing that any tax credits earned for expenditures made during the 2018 fiscal year be deferred until after the 2018 fiscal year.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 294, Relating to Community Sustainability Investment Pilot Program.

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,

Craig Blair,
Chair.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator 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 333 (originating in the Committee on Health and Human Resources), Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database.

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

Com. Sub. for Com. Sub. for Senate Bill 333 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60A-9-4, §60A-9-5 and §60A-9-5a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §60A-9-9, all relating the Controlled Substances Monitoring Program database; requiring reporting instances of an overdose or a suspected overdose to the database; setting out elements to be reported; allowing access to the database to deans of the state's medical schools or their designees for monitoring prescribing practices of prescribing faculty and residents; allowing access to designated physician reviewers for medical provider employers and hospital chief medical officers; allowing the Board of Pharmacy to require that drugs of concern be reported to the database; exempting reporting requirements for drugs of concern from criminal penalties; allowing agents for the Office of Health Facility Licensure and Certification to access the database; allowing the Board of Pharmacy to develop administrative penalties for not reporting drugs of concern; providing for rulemaking; requiring the licensing boards to report to the Board of Pharmacy when notified of unusual prescribing habits of a licensee; and making technical corrections.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Smith, from the Committee on Energy, Industry and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry and Mining has had under consideration

Senate Bill 369, Permitting surface owners purchase mineral interests when interest becomes tax lien.

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

Com. Sub. for Senate Bill 369 (originating in the Committee on Energy, Industry and Mining)—A Bill to amend and reenact §11A-3-19, §11A-3-21, §11A-3-23, §11A-3-52, §11A-3-54 and §11A-3-56 of the Code of West Virginia, 1931, as amended; to amend said code by adding

thereto two new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a, and §11A-3-58b; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien; permitting mineral owners to purchase the surface interest that lies above the mineral interest when the surface tract become subject to establishing procedures; requiring notice; establishing the purchase prices; establishing nonrefundable \$20 administrative fee; providing a procedure if more than one surface owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that are sent to property owners; and providing remedies relating to tax sales.

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,

Randy E. Smith,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 369) 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 the Judiciary.

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

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

Your Committee on Natural Resources has had under consideration

Senate Bill 375, Relating to rate and measure of severance taxes on certain natural resources.

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

Com. Sub. for Senate Bill 375 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to severance tax on certain natural resources; defining mined aggregates; changing the severance tax on mined aggregates after certain date; and making technical corrections.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 375) contained in the preceding report from the Committee on Natural 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 Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 386, Creating WV Medical Cannabis Act.

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

Com. Sub. for Senate Bill 386 (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 §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15 and §16-8A-16, all relating to creating the West Virginia Medical Cannabis Act; defining terms; creating the West Virginia Medical Cannabis Commission; setting forth members of the West Virginia Medical Cannabis Commission; setting forth responsibilities for the West Virginia Medical Cannabis Commission; creating a special revenue account known as the West Virginia Medical Cannabis Commission Fund; requiring a portion of any profit to be spend for specific programs; detailing the fund's revenue sources and disbursements; detailing requirements of the commission to implement the provisions of the act; setting requirements for becoming a certifying physician; authorizing the commission to approve physician applications for certain medical conditions; requiring reporting to the Controlled Substances monitoring database; setting out conditions for which cannabis may be used; requiring certain annual reports to the Governor and Legislature; authorizing the commission to license medical cannabis growers and grower agents that meet certain requirements; setting forth certain parameters for licensed growers and grower agents; requiring a certain percentage of licenses be granted to persons in veterans agriculture programs; providing an exception for a qualifying patient to grow a specified amount without a license; authorizing the commission to license dispensaries and register dispensary agents; setting forth certain requirements for dispensaries and dispensary agents; authorizing the commission to license medical cannabis processors and register processor agents; authorizing testing laboratories; stating requirements for the commission's registration of independent laboratories; requiring the State Police and commission to enter a memorandum of understanding for criminal records checks and setting forth basic requirements; providing that certain persons licensed, registered and authorized under the act may not be subject to arrest, prosecution or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of cannabis; creating a new criminal offense of distributing, possessing, manufacturing or using cannabis that has been diverted from an authorized medicinal use; specifically stating conduct related to cannabis that is not protected by the provisions of the act; authorizing state employees to recover certain counsel fees; empowering the Governor to suspend implementation of the act if the Governor determines certain federal action may occur; and requiring promulgation of emergency rules and the submission of legislative rules for approval by the Legislature.

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,

Tom Takubo,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 386) 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 Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 402, Relating to covenants not to compete between physicians and hospitals.

And,

Senate Bill 667, Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 406, Relating to generic drug products.

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

Com. Sub. for Senate Bill 406 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating to generic drug products generally; providing definitions; providing that when a pharmacist substitutes a drug, the patient shall receive the savings which shall be equal to the difference in acquisition cost of the product prescribed and the acquisition cost of the substituted product; providing an exception for covered individuals; and clarifying that the West Virginia Board of Pharmacy has primary responsibility for enforcement.

Senate Bill 515, Relating to parole requirements for hearings and release.

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

Com. Sub. for Senate Bill 515 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-13 and §62-12-23 of the Code of West Virginia, 1931, as amended, all relating to parole generally; eliminating redundant and outdated reporting requirements regarding parolees; and modifying notice requirements to certain persons for parole hearings and inmate release.

Senate Bill 606, Defining seasonal amusement parks workers.

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 §21-5C-1 of the Code of West Virginia, 1931, as amended, relating to minimum wage and maximum hour standards for employees; and adding exceptions to the definition of the term employee for any person employed as a seasonal employee of an enterprise, principally devoted to amusement rides and amusement attractions, any person employed by a traveling enterprise principally devoted to amusement rides or amusement attractions or a traveling carnival, including food concessions, or any person employed by a minor or major league baseball organization; limiting months of operation and receipts; *providing* that the exemptions are for a limited purpose.

And,

Senate Bill 637, Relating to private club operations requirements.

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

Com. Sub. for Senate Bill 637 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating to private club operations requirements, generally; defining terms; permitting certain private club licensees that operate tourist destination and resort facilities to obtain one private resort hotel license for the lawful sale and consumption of alcoholic liquors and non-intoxicating beer in designated and approved areas throughout the licensed premises but within the confines of the property; permitting certain private club licensees that operate golf or country clubs to obtain one private golf club license for the lawful sale and consumption of alcoholic liquors and non-intoxicating beer on the premises of the facility; establishing license requirement; permitting patrons seventeen years of age to enter the licensed premises unaccompanied by a parent or legal guardian at private resort hotels and private golf clubs under limited circumstances, subject to certain conditions, and certain private clubs with designated non-alcohol areas; and establishing license fees.

With the recommendation that the four committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Karnes, from the Select Committee on Tax Reform, submitted the following report, which was received:

Your Select Committee on Tax Reform has had under consideration

Senate Bill 409, Modifying exemptions for consumers sales and service tax.

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

Com. Sub. for Senate Bill 409 (originating in the Select Committee on Tax Reform)—A Bill to amend the Code of West Virginia, 1931, as amended, by repealing §11-8-6e; to amend said code by amending and reenacting §11-8-6f; to amend said code by repealing §11-8-6g; to amend said code by adding thereto a new section, designated §11-13A-26; to amend said code by amending and reenacting §11-15-3, §11-15-3a, §11-15-8, §11-15-9, §11-15A-2; to amend said code by adding thereto a new section, designated §11-21-4g; all relating generally to the 2017 Tax Reform Act; to the repeal of certain procedures relating to increased tax assessments; to the prospective balancing of the rate of the severance tax on the production of coal; to the increase of the rate of the consumers sales and service tax; to the elimination of certain exemptions from the consumers sales and service tax; to the increase of the rate of the use tax; to the reduction of the rate of the personal income tax and establishing effective dates with respect thereto.

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,

Robert Karnes,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 409) contained in the preceding report from the Select Committee on Tax Reform 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 Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Com. Sub. for Senate Bill 501 (originating in the Committee on Economic Development), Relating to WV Economic Development Authority.

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

Com. Sub. for Com. Sub. for Senate Bill 501 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15-5a, relating to creating the Minority Economic Development Advisory Council; providing for composition and duties of the Minority Economic Development Advisory Council; requiring members first appointed be appointed to staggered terms; prohibiting appointed members from serving more than two consecutive terms; providing that an appointed member may continue to serve until his or her successor is appointed; prohibiting members from receiving compensation other than reimbursement for reasonable expenses; and requiring quarterly meetings.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Hall, 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 521 (originating in the Committee on the Judiciary), Relating generally to Public Defender Services.

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

Com. Sub. for Com. Sub. for Senate Bill 521 (originating in the Committee on Finance)—A Bill to amend and reenact §29-21-2, §29-21-6, §29-21-8, §29-21-9 and §29-21-13a of the Code of West Virginia, 1931, as amended; all relating generally to Public Defender Services; transferring initial authority to review, approve, reduce or reject panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission of vouchers previously reduced or rejected; establishing protocol for handling of rejected or reduced vouchers; maintaining final authority over payment vouchers with the appointing courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to establish conflict public defender corporations and establishing criteria therefor; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for legal services or specialized legal services in any circuit; revising order of preference for the appointment of attorneys; and requiring panel attorneys to maintain time-keeping records on a daily basis.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 534, Relating to incentives for consolidating local governments.

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

Com. Sub. for Senate Bill 534 (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; to amend said code by adding thereto a new section, designated §7A-2-5; and to amend and reenact §31-20-10a of said code, all relating to incentives for consolidating local governments; amending certain terms to include municipalities that successfully consolidated; allowing consolidation of local governments to

include public school districts, library districts and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; creating certain incentives for municipalities and counties that form metro governments by consolidation; and requiring the Division of Corrections to pay for regional jail bills of counties that consolidate from the point of a felony conviction, rather than after sentencing.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 588, Relating to reproduction, distribution and sale of tax maps.

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

Com. Sub. for Senate Bill 588 (originating in the Committee on Government Organization)—A Bill to amend and reenact §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-10 of said code, all relating to the reproduction, distribution and sale of tax maps; defining terms; specifying powers of the Property Valuation Training and Procedures Commission to promulgate rules; specifying duties of county assessors; requiring that sale, reproduction and distribution of certain records be in accordance with specified legislative rules; and specifying certain fees.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
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 687 (originating in the Committee on Energy, Industry and Mining)—A Bill to amend and reenact §22-3-11, §22-3-13a and §22-3-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-6-24 of said code; to amend and reenact §22-11-7b of said code; to amend and reenact §22A-1-2 and §22A-1-5 of said code; to amend and reenact §22A-2-59 of said code; to amend said code by adding thereto a new section, designated §22A-2A-1001; to amend and reenact §22A-6-3, §22A-6-4 and §22A-6-6 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-5, §22A-7-5a and §22A-7-7 of said code; to amend and reenact §22A-9-1 of said code; to amend and reenact §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4 of said code; to amend said code by adding thereto a new section, designated §22A-

11-5, all relating generally to coal mining, coal mining safety and environmental protection; providing that moneys be paid from special reclamation water trust fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites; modifying notification requirements for preblast surveys for surface mining operations and certain other blasting activities; removing minimum bond requirements related to certain reclamation work; providing for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well; removing certain criteria from evaluation for the narrative water quality standard; authorizing the elimination of the Board of Miner Training, Education and Certification, the Mine Inspectors' Examining Board, and the Mine Safety Technology Task Force, and the transfer of duties from those boards and task force to the Board of Coal Mine Health and Safety; providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine; directing that the Office of Miners' Health, Safety and Training revise state rules related to diesel equipment operating in underground mines; and requiring rulemaking.

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

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

Senate Bill 688 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended, relating to correcting a technical error within the Solid Waste Management Act.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 689 (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 §17-2A-8d, relating to payment of small claims by the Division of Highways; setting forth findings and a declaration of public purpose; recognizing the need for an efficient process to pay certain claims against the Division of Highways; retaining the state's sovereign immunity; requiring the division to develop a system to investigate and pay certain small claims; establishing minimum requirements for the system to evaluate and pay the claims; specifying information to be submitted by a claimant; limiting types of claims and amount of claims authorized under the

system; requiring Division of Highways review each claim and return incomplete claims for correction; allowing claimant thirty calendar days to make corrections and return claim to division; requiring division to submit a report of all claims to the Legislative Auditor for approval; providing Legislative Auditor fifteen calendar days to approve or disapprove claim; authorizing Legislative Auditor to request additional information on a claim; providing Legislative Auditor ten calendar days to act on claim after receiving requested information; providing that a claimant whose claim has not been approved is not barred from filing a claim with the West Virginia Claims Commission; authorizing the promulgation of rules; requiring Division process claims upon receipt of Legislative Auditor's approval; and requiring State Auditor issue warrant for payment.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 690 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the West Virginia State Police to impose and collect a fee for agencies and entities using the facilities under his or her direction for training purposes.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Joint Resolution 6 (originating in the Committee on Transportation and Infrastructure), Roads to Prosperity Amendment of 2017.

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

Com. Sub. for Com. Sub. for Senate Joint Resolution 6 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$1.6 billion to be used for improvement and construction of state roads and bridges; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017, to be set by the Governor; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute for committee substitute be adopted; 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 Ferns, unanimous consent being granted, the resolution (Com. Sub. for S. J. R. 6) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Trump, the resolution was referred to the Committee on Finance.

Senator Karnes, from the Select Committee on Tax Reform, submitted the following report, which was received:

Your Select Committee on Tax Reform has had under consideration

Senate Joint Resolution 8, Fair and Simple Tax Reform or FASTR amendment.

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

Com. Sub. for Senate Joint Resolution 8 (originating in the Select Committee on Tax Reform)—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by repealing sections one, one-a, one-b, one-c, eight, eight-a, ten and eleven; adding thereto a new section, designated section thirteen, relating to fair and simple tax reform; preserving rights, duties and obligations of taxpayers, local taxing authorities and the State for periods prior to ratification of this amendment; repealing the personal property tax; authorizing new classes of real property for the purpose of taxation; authorizing taxing authorities to administer levies and excess levies; creating a State infrastructure and equalization fund; providing for block grants to local schools and governments for education and infrastructure; establishing exemptions to the real property tax; backing bond revenue with the full faith and credit of West Virginia; grandfathering tax benefits earned prior to the ratification of this amendment; providing for the enactment of new benefits; establishing a supremacy clause; providing for general law implementation; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted; but under the original double committee reference first be referred to the Committee on Judiciary.

Respectfully submitted,

Robert Karnes,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (Com. Sub. for S. J. R. 8) contained in the preceding report from the Select Committee on Tax Reform 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.

Petitions

Senator Boso presented a petition from Anita Warren and eighty-two Pendleton County residents, requesting funding for the Wildlife Services Predator Control Program.

Referred to the Committee on Natural Resources.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 74, Allowing fire departments to charge fees for service calls.

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

Pending discussion,

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

Eng. Com. Sub. for Senate Bill 428, Relating to partial filling of prescriptions.

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

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

The nays were: None.

Absent: Karnes—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. 428) 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 433, Permitting counties increase excise tax on privilege of transferring real property.

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

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

The nays were: Miller, Romano and Unger—3.

Absent: Karnes—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 433) 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 477, Increasing State Road Fund by raising DMV fees and motor fuel excise taxes.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 24, 2017, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Boso, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page fifteen, section four, line one hundred fifty-two, by striking out the word “three-b” and inserting in lieu thereof the word “three-c”;

On page nineteen, section ten, line forty-one, after the word “cosmetic” by inserting the word “total”;

On page twenty-one, section ten, lines eighty-three and eighty-four, by striking out the words “or cosmetic total loss title” and inserting in lieu thereof a comma and the words “cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand title”;

And,

On page twenty-seven, section three-c, lines one and two, by striking out the words “hydrogen, natural gas, nonpetrochemical fuels or a combination thereof” and inserting in lieu thereof the words “hydrogen or natural gas”.

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 477 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 477 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boso, Clements, Cline, Ferns, Gaunch, Hall, Jeffries, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—27.

The nays were: Azinger, Boley, Facemire, Romano, Rucker and Woelfel—6.

Absent: Karnes—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. 477) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2017.

On this question, the yeas were: Beach, Blair, Boso, Clements, Cline, Ferns, Gaunch, Hall, Jeffries, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—27.

The nays were: Azinger, Boley, Facemire, Romano, Rucker and Woelfel—6.

Absent: Karnes—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. 477) takes effect July 1, 2017.

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 Blair, and by unanimous consent, the remarks by Senators Plymale and Clements regarding the passage of Engrossed Committee Substitute for Senate Bill 477 were ordered printed in the Appendix to the Journal.

Eng. Senate Bill 504, Defining “special aircraft property”.

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

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

Eng. Com. Sub. for Senate Bill 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors.

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

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

The nays were: None.

Absent: Karnes—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. 602) 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, Relating generally to tax procedures and administration.

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

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

The nays were: None.

Absent: Karnes—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. 622) 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 658, Establishing procedure for retitling mobile and manufactured homes.

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

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

The nays were: None.

Absent: Karnes—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 658) 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 2486, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order.

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

(Senator Blair in the Chair.)

Pending discussion,

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

Senator Romano then moved that the bill (Eng. Com. Sub. for H. B. 2486) be recommitted to the Committee on the Judiciary.

Following discussion,

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

The roll being taken, the yeas were: Azinger, Beach, Clements, Facemire, Jeffries, Maroney, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—15.

The nays were: Blair, Boley, Boso, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's aforesated motion had not prevailed.

The question now being "Shall Engrossed Committee Substitute for House Bill 2486 pass?"

On the passage of the bill, the yeas were: Blair, Boley, Boso, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, Woelfel and Carmichael (Mr. President)—20.

The nays were: Azinger, Beach, Clements, Facemire, Jeffries, Maroney, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings and Unger—14.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2486) 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 House Bill 2486—A Bill to amend and reenact §33-6F-1 of the Code of West Virginia, 1931, as amended, relating to medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation; providing that such records shall be confidentially maintained by insurers in accordance with state and federal law, including the provisions of Title 114, Series 57 of the Code of State Rules; prohibiting additional restrictions or conditions on medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation that contradict or are inconsistent with any applicable policy of insurance or the performance of insurance functions permitted or authorized by state and federal law; requiring the State Insurance Commissioner to review the provisions of Title 114, Series 57 of the Code of State Rules and to propose new rules or modify existing rules to the extent deemed necessary; requiring the State Insurance Commissioner to propose any such new rules or modification to existing rules by December 31, 2017; and setting forth areas to be addressed in any new rules or modified existing rules in the provisions of Title 114, Series 57 of the Code of State Rules.

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 2811, Relating to the definition of above ground storage tanks.

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 2811 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: Jeffries, Palumbo and Unger—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 H. B. 2811) passed with its title.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 60, Relating to eligibility and fraud requirements for public assistance.

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

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

Com. Sub. for Senate Bill 69, Creating Sexual Assault Victims’ Bill of Rights.

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

Com. Sub. for Senate Bill 167, Relating to DNA evidence.

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 210, Renaming Local Powers Act the County Local Powers 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 217, Relating to disclaimers of warranties regarding used manufactured homes.

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

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

Com. Sub. for Com. Sub. for Senate Bill 281, Increasing number of limited video lottery machines allowed at retail location.

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

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

Com. Sub. for Senate Bill 316, Requiring individuals receiving unemployment compensation apply for and accept seasonal employment.

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 376, Relating generally to Sex Offender Registration Act.

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

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

Com. Sub. for Senate Bill 380, Creating 2-year pilot program to allow all-terrain or recreational vehicles in Cabwaylingo State Forest.

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 388, Relating to dangerous weapons.

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

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

On pages six and seven, by striking out all of section fourteen and inserting in lieu thereof a new section, designated section fourteen, to read as follows:

§61-7-14. Right of certain persons to limit possession of firearms on premises.

(a) As used in this section:

(1) "Parking lot" means any property that is used for parking motor vehicles and is available to customers, employees, or invitees for temporary or long-term parking or storage of motor vehicles.

(2) "Motor vehicle" means any automobile, truck, minivan, sports utility vehicle, motor home, recreational vehicle, motorcycle, motor scooter or any other vehicle operated on the roads of this state and required to be registered under state law.

(3) "Employee" means any person, who is over eighteen years of age, not prohibited from possessing firearms by the provisions of this code or federal law and:

(A) Works for salary, wages or other remuneration;

(B) Is an independent contractor; or

(C) Is a volunteer, intern or other similar individual for an employer.

(4) "Employer" means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution or association, or public sector entity, that has employees.

(5) "Invitee" means any business invitee, including a customer or visitor, who is lawfully on the premises of a public or private employer.

(b) Notwithstanding the provisions of this article, any owner, lessee or other person charged with the care, custody and control of real property may prohibit the carrying openly or concealed of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes of this section "person" means an individual or any entity which may acquire title to real property.

(c) Any person carrying or possessing a firearm or other deadly weapon on the property of another who refuses to temporarily relinquish possession of the firearm or other deadly weapon, upon being requested to do so, or to leave the premises, while in possession of the firearm or other deadly weapon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both: *Provided*, That the provisions of this section do not apply to a person as set forth in subdivisions (3) through (7), subsection (a), section six of this article while the person is acting in an official capacity; and to a person as set forth in subdivisions (1) through (8), subsection (b), section six of this article, while the person is acting in his or her official capacity: *Provided, however*, That under no circumstances, except as provided for by the provisions of paragraph (1), subdivision (2), subsection (b), section eleven-a of this article may any person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless the person is a law-enforcement officer or he or she has the express written permission of the county school superintendent.

(d) *Prohibited acts.* —

(1) No public or private employer may prohibit any customer, employee or invitee from possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and when the customer, employee or invitee is lawfully in such area.

(2) No public or private employer may violate the privacy rights of a customer, employee or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. Further, no public or private employer may take any action against a customer, employee or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by on-

duty law-enforcement personnel, based upon due process and must comply with constitutional protections.

(3) No public or private employer shall condition employment upon either:

(A) The fact that an employee or prospective employee holds or does not hold a license issued pursuant to the provisions of section four or four-a of this article; or

(B) Any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot when such firearm is kept for lawful purposes.

(4) No public or private employer shall prohibit or attempt to prevent any customer, employee or invitee from entering the parking lot of the employer's place of business because the customer's, employee's or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's or invitee's private motor vehicle.

(e) Duty of care of public and private employers: immunity from liability. —

(1) When subject to the provisions of subsection (d) of this section, a public or private employer has no duty of care related to the actions prohibited under such subsection.

(2) A public or private employer is not liable in a civil action based on actions or inactions taken in compliance with this section. The immunity provided in this subsection does not apply to civil actions based on actions or inactions of public or private employers that are unrelated to compliance with this section.

(3) Nothing contained in this section shall be interpreted to expand any existing duty, or create any additional duty, on the part of a public or private employer, property owner or property owner's agent.

(f) Enforcement. – The Attorney General is authorized to enforce the provisions of this section and may bring a civil action to restrain a public or private employer from violating this section:

(1) For injunctive or other appropriate equitable relief in order to protect the exercise or enjoyment of the rights secured in this section to any customer, employee or invitee of a public or private employer, or

(2) For civil penalties of no more than five thousand dollars for each violation of this section and all costs and attorney's fees associated with bringing the action; or

(3) For both equitable relief and civil penalties, including costs and attorney's fees. This action must be brought in the name of the state and instituted in the circuit court of Kanawha County. The Attorney General may negotiate a settlement with any employer in the course of his or her enforcement of this section.

The grant of authority to the Attorney General in this subsection does not affect the right of a person aggrieved under this section to bring a civil action for violation of rights protected under the section in his or her name and instituted in the circuit court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred. In

any successful action brought by a customer, employee or invitee aggrieved under this section, the court may award injunctive relief and all reasonable personal costs and losses suffered by the aggrieved person as a result of the violation of rights under this section. In any action brought by an aggrieved person pursuant to this section, the court shall award all court costs and attorney's fees to the prevailing party.

On motion of Senator Jeffries, the following amendment to Senator Sypolt's amendment to the bill (Com. Sub. for S. B. 388) was reported by the Clerk:

On page one, section fourteen, subdivision (1), subsection (a), after the word "vehicles" by changing the period to a colon and inserting the following proviso: *Provided*, That for purposes of this section, parking lot does not include the private parking area at a business located at the primary residence of the property owner.

Following discussion,

The question being on the adoption of Senator Jeffries' amendment to Senator Sypolt's amendment to the bill (Com. Sub. for S. B. 388), the same was put and did not prevail.

The question now being on the adoption of Senator Sypolt's amendment to the bill.

Thereafter, at the request of Senator Sypolt, and by unanimous consent, Senator Sypolt's amendment to the bill was withdrawn.

The bill (Com. Sub. for S. B. 388) was then ordered to engrossment and third reading.

Senate Bill 401, Allowing county board of education base employment decisions on individual's qualifications.

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

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

Com. Sub. for Senate Bill 412, Relating to WV Jobs Act reporting requirements.

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

Senate Bill 416, Relating to Public-Private Transportation Facilities Act.

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

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

Senate Bill 417, Removing financial limitations on number of design-build projects undertaken by DOH.

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

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

Senate Bill 421, Increasing amount of authorized federal Grant Anticipation Notes for which DOH may apply.

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

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

Com. Sub. for Senate Bill 437, Discontinuing WV Greyhound Breeding Development Fund.

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

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

Com. Sub. for Senate Bill 453, Adding classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory.

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 484, Relating generally to taxation.

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

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

Senate Bill 493, Providing increase in compensation for conservation officers.

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

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

On page four, section one-a, line sixty-eight, by striking out "\$52,862" and inserting in lieu thereof "\$55,013".

The bill (S. B. 493), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 539, Relating to regulation and control of financing elections.

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

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

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

That §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-5, §3-8-5a, §3-8-5b, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-12 and §3-8-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto five new sections, designated §3-8-1b, §3-8-1c, §3-8-5c, §3-8-8a and §3-8-9a, all to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

As used in this article, the following terms have the following definitions:

(1) "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter or revision, an increase or decrease of corporate limits or any other question that is placed before the voters for a binding decision.

(2) "Billboard advertisement" means a commercially available outdoor advertisement, sign or similar display regularly available for lease or rental to advertise a person, place or product.

(3) "Broadcast, cable or satellite communication" means a communication that is publicly distributed by a television station, radio station, cable television system or satellite system.

(4) "Candidate" means an individual who:

(A) Has filed a certificate of announcement under section seven, article five of this chapter or a municipal charter;

(B) Has filed a declaration of candidacy under section twenty-three, article five of this chapter;

(C) Has been named to fill a vacancy on a ballot; or

(D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election for any state, district, county or municipal office or party office to be filled at any primary, general or special election.

(5) "Candidate's committee" or "candidate committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(6) "Clearly identified" means that the name, nickname, photograph, drawing or other depiction of the candidate appears or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the Governor", "your Senator" or "the incumbent" or through an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for Governor" or "the Republican candidate for ~~Supreme Court of Appeals~~ House of Delegates".

~~(7) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election~~

~~or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.~~

~~(8)~~ (7) "Corporate political action committee" means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

~~(9)~~ (8) "Direct costs of purchasing, producing or disseminating electioneering communications" means:

(A) Costs charged by a vendor, including, but not limited to, studio rental time, compensation of staff and employees, costs of video or audio recording media and talent, material and printing costs and postage; or

(B) The cost of air time on broadcast, cable or satellite radio and television stations, the costs of disseminating printed materials, studio time, use of facilities and the charges for a broker to purchase air time.

~~(10)~~ (9) "Disclosure date" means either of the following:

(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of \$5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the person has made additional expenditures totaling \$5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications.

~~(11)~~ (10) "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect candidates for public office. For purposes of this article, each primary, general, special or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term "nomination" as used in this article.

~~(12)~~ (11) (A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or published in any newspaper, magazine or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals or the Legislature;

(ii) Is publicly disseminated within:

(I) Thirty days before a primary election at which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a general or special election at which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate: ~~Provided, That for purposes of the general election of 2008 the amendments to this article are effective October 1, 2008.~~

(B) "Electioneering communication" does not include:

(i) A news story, commentary or editorial disseminated through the facilities of any broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical publication not owned or controlled by a political party, political committee or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing or listening area;

(ii) Activity by a candidate committee, party executive committee or political party caucus committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to section five of this article or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee or caucus committee or a political action committee required to be reported pursuant to subsection (b), section two of this article are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by a membership organization, in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate or his or her status as a candidate; or

(viii) A communication, such as a voter's guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.

~~(43)~~ (12) "Expressly advocating" means any communication that:

(A) Uses phrases such as “vote for the Governor”, “reelect your Senator”, “support the ~~Democratic nominee~~ incumbent candidate for Supreme Court”, “cast your ballot for the Republican challenger for House of Delegates”, “Smith for House”, “Bob Smith in ‘04”, “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as pro-life or pro-choice, “vote against Old Hickory”, “defeat” accompanied by a picture of one or more candidates, or “reject the incumbent”;

(B) Communications of campaign slogans or individual words, that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say “Smith’s the One”, “Jones ‘06”, “Baker”, etc.; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

~~(14)~~ (13) “Financial agent” means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

~~(15)~~ (14) “Fundraising event” means an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or services.

~~(16)~~ (15) “Independent expenditure” means an expenditure by a person:

(A) Expressly advocating the election or defeat of a clearly identified candidate; and

(B) That is not made in concert or cooperation with or at the request or suggestion of such candidate, his or her agents, the candidate’s authorized political committee or a political party committee or its agents.

Supporting or opposing the election of a clearly identified candidate includes supporting or opposing the candidates of a political party. An expenditure which does not meet the criteria for an independent expenditure is considered a contribution.

~~(17)~~ (16) “Mass mailing” means a mailing by United States mail, facsimile or electronic mail of more than five hundred pieces of mail matter of an identical or substantially similar nature within any thirty-day period. For purposes of this subdivision “substantially similar” includes communications that contain substantially the same template or language, but vary in nonmaterial respects such as communications customized by the recipient’s name, occupation or geographic location.

~~(18)~~ (17) “Membership organization” means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors and the ability to hold office, to its members and which uses a majority of its membership dues for purposes other than political purposes. “Membership organization” does not include organizations that grant membership upon receiving a contribution.

(18) "Membership organization political action committee" means a political action committee that is a separate segregated fund of a membership organization that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

(19) "Name" means the full first name, middle name or initial, if any, and full legal last name of an individual and the full name of any association, corporation, committee or other organization of individuals, making the identity of any person who makes a contribution apparent by unambiguous reference.

(20) "Person" means an individual, corporation, partnership, committee, association and any other organization or group of individuals.

(21) "Political action committee" means a committee organized by one or more persons for the purpose of supporting or opposing the nomination or election of one or more candidates. The following are types of political action committees:

(A) A corporate political action committee, as that term is defined by subdivision ~~(8)~~ (7) of this section;

(B) A membership organization political action committee, as that term is defined by subdivision (18) of this section;

(C) An unaffiliated political action committee, as that term is defined by subdivision (29) of this section.

(22) "Political committee" means any candidate's committee, political action committee or political party committee, as defined in subdivision (5), (21) or (25) of this section.

(23) "Political party" means a political party as that term is defined by section eight, article one of this chapter or any committee established, financed, maintained or controlled by the party, including any subsidiary, branch or local unit thereof and including national or regional affiliates of the party.

(24) "Political party caucus" means the committees that are established by the Republican and Democrat caucuses of both the West Virginia House of Delegates and the West Virginia State Senate, or by any other political party recognized by the State of West Virginia.

~~(24)~~ (25) "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination or defeat of a candidate in any election.

~~(25)~~ (26) "Political purposes" means supporting or opposing the nomination, election or defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the debt of a candidate or political committee or the administration or activities of an established political party or an organization which has declared itself a political party and determining the advisability of becoming a candidate under the precandidacy financing provisions of this chapter.

~~(26)~~ (27) "Targeted to the relevant electorate" means that a communication ~~which~~ refers to a clearly identified candidate for statewide office or the Legislature and ~~which~~ can be received by one hundred forty thousand or more individuals in the state in the case of a candidacy for statewide office, eight thousand two hundred twenty or more individuals in the district in the case

of a candidacy for the State Senate and two thousand four hundred ten or more individuals in the district in the case of a candidacy for the House of Delegates.

~~(27)~~ (28) “Telephone bank” means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions or trained volunteers.

~~(28)~~ “Two-year election cycle” means the twenty-four month period that begins the day after a general election and ends on the day of the subsequent general election.

(29) “Unaffiliated political action committee” means a political action committee that is not affiliated with a corporation or a membership organization.

§3-8-1b. Political contribution defined.

(a) “Political contribution” means:

(1) Any gift, subscription, loan, advance, deposit of money or payment or anything of value given to any entity that is registered or is required to be registered as a political committee at the time the political contribution is made, or that is given to be used specifically for making political contributions to other recipients or for making political expenditures; or

(2) Any political expenditure, as that term is defined in section one-c of this article, that is made in coordination with a candidate, candidate committee or party committee.

(b) The term “political contribution” does not include:

(1) Any gift, subscription, loan, advance, deposit of money or payment or anything of value made or given as part of a bona fide commercial transaction, including, but not limited to, any loans, refunds, rebates or discounts offered to the general public or similar customers on substantially the same material terms;

(2) The payment by any corporation or membership organization for the costs of establishing, administering, and soliciting contributions from its restricted class to its separate segregated fund;

(3) The payment by any corporation or membership organization for the costs of communicating with its restricted class about any subject;

(4) The appearance of a candidate at any residence or the facilities of any corporation, membership organization, social or civic organization, or educational institution to speak about the candidate’s campaign: *Provided*, That the use of such venue is furnished by the venue’s owner and is not paid for by a third party;

(5) The costs of hosting a debate or candidates’ forum: *Provided*, That at least two opposing candidates with respect to any given office sought are invited with the same or similar advance notice and method of invitation;

(6) The preparation and distribution of voter guides, subject to the following:

(A) The sponsor may include in the voter guide similar biographical information on each featured candidate, such as education, employment positions, offices held and community involvement;

(B) Comparable information shall be provided on each candidate featured in the voter guide for a particular office or each candidate featured shall be provided an equal opportunity to respond to questions;

(C) No featured candidate may receive greater prominence in the voter guide than any other candidate, or substantially more space for descriptions of his or her positions or responses; and

(D) The sponsor of the voter guide shall not include the sponsor's own message meeting the definition of a political expenditure under section one-c of this article;

(7) The value of services provided without compensation by any individual who volunteers on behalf of any candidate, candidate committee, party committee or other political committee, or any unreimbursed payment for expenses related to the volunteer activity;

(8) Any cost incurred for covering or carrying a news story, commentary or editorial by a broadcasting station or cable television operator, Internet website, or newspaper or other periodical publication, including an Internet or other electronic publication: *Provided*, That the cost for the news story, commentary or editorial is not paid for by, and the medium is not owned or controlled by, a candidate, candidate committee, party committee or other political committee; and

(9) The payment for or provision of legal and accounting services rendered to a candidate, candidate committee, party committee or other political committee if the services are solely for the purpose of ensuring compliance with or challenging the constitutional validity or interpretation of the provisions of this chapter;

(c) The term "political contribution" may not be construed to include any transactions not specifically listed in subsection (b) of this section if those contributions do not otherwise meet the definition of "political contribution" as set forth in subsection (a) of this section.

§3-8-1c. Political expenditure defined.

(a) "Political expenditure" means the payment for:

(1) Any communication that constitutes express advocacy or electioneering communications, as those terms are defined in subdivisions (11) and (12), section one-a of this article; or

(2) The republication of campaign materials for any candidate, candidate committee, party committee or political committee, except for:

(A) The republication of materials in a voter guide described under subdivision (6), subsection (b), section one-b of this article;

(B) The republication of campaign materials commenting or explaining a candidate's position on any issue that does not otherwise in express terms call for the election or defeat of any clearly identified candidate; or

(C) The republication of publicly available photographs or video footage of a candidate that is devoid of any text or audio content in or from the original material.

(b) The term “political expenditure” does not include anything that is excluded from the definition of a “political contribution”, as set forth in subsection (b), section one-b of this article of the definition of “political contribution.”

(c) A “political expenditure” is “made in coordination” or otherwise considered to be coordinated if:

(1) The communication is paid for, in whole or in part, by a person other than a candidate, candidate committee or party committee; and

(2) It satisfies at least one of the following conduct standards:

(A) The political expenditure is created, produced, distributed or undertaken at the request or suggestion of a candidate, candidate committee, party committee; or

(B) The political expenditure is created, produced, distributed or undertaken at the suggestion of a person paying for the expenditure and the candidate, candidate committee or party committee affirmatively assents to the suggestion.

(d) A “political expenditure” is not “made in coordination” or otherwise considered to be coordinated if any of the following occur:

(1) A candidate committee or a political party committee responds to an inquiry about the candidate’s or political party committee’s positions on legislative or policy issues, including substantive discussion of the legislative or policy issues, but not including a discussion of campaign plans, projects, activities, or needs;

(2) Information or materials used in the creation, production, distribution or undertaking of the political expenditure was obtained from a publicly available source;

(3) A candidate endorses another candidate;

(4) A candidate solicits funds for another candidate, a political committee, a party committee or organizations eligible to receive tax-deductible donations under 26 U. S. C. §170 (or any successor provision) and regulations of the U. S. Department of Treasury;

(5) A candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy, if the communication does not refer to an election or another candidate who seeks the same office as that candidate; or

(6) A commercial vendor, former employee or political committee has established and implemented a firewall that meets the following requirements: *Provided*, That the communication does not qualify for this exemption if specific information indicates that, despite the firewall, information about a candidate’s, candidate committee’s, measure committee’s, or party committee’s campaign plans, projects, activities or needs that is material to the creation, production or distribution of the political expenditure was used or conveyed to the person paying for the political expenditure;

(A) The firewall must be designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to a candidate or party committee, or a candidate committee or measure committee supporting or opposing a candidate or measure clearly identified in the political expenditure; and

(B) The firewall must be described in a written policy that is distributed to all relevant employees, consultants and clients affected by the policy.

(e) Political expenditures may only be made in coordination with a candidate or candidate's committee as set forth in section nine-a of this article.

(f) Any political expenditure that is made in coordination with a candidate or candidate's committee must contain a disclaimer that clearly identifies that the expenditure is coordinated.

§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting independent expenditures.

(a) Except for: (1) Candidates for party committeeman and committeewoman; and (2) federal committees required to file under the provisions of 2 U. S. C. §434; and (3) candidates for delegate to a national convention, all candidates for nomination or election and all persons supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a period of six months records of receipts and expenditures which are made for political purposes; Provided, That any federal committee that makes state level independent expenditures or engages in state level electioneering communications is not exempt from the recordkeeping and reporting provisions of this article. All of the receipts and expenditures are subject to regulation by the provisions of this article. Verified financial statements of the records and expenditures shall be made and filed as public records by all candidates and by their financial agents, representatives or any person acting for and on behalf of any candidate and by the treasurers of all political party committees.

(b) ~~(1)~~ In addition to any other reporting required by the provisions of this chapter, any person who makes independent expenditures in an aggregate amount or value in excess of \$1,000 during a calendar year shall file a disclosure statement, on a form prescribed by the Secretary of State, that contains all of the requirements set forth in section eight-a of this article. ~~following information:~~

~~(A) The name of (i) the person making the expenditure; (ii) the name of any person sharing or exercising direction or control over the activities of the person making the expenditure; and (iii) the name of the custodian of the books and accounts of the person making the expenditure;~~

~~(B) If the person making the expenditure is not an individual, the principal place of business of the partnership, corporation, committee, association, organization or group which made the expenditure;~~

~~(C) The amount of each expenditure of more than \$1,000 made during the period covered by the statement and the name of the person to whom the expenditure was made;~~

~~(D) The elections to which the independent expenditure pertain, the names, if known, of the candidates referred to or to be referred to therein, whether the expenditure is intended to support or oppose the identified candidates and the amount of the total expenditure reported pursuant to paragraph (C) of this subdivision spent to support or oppose each of the identified candidates;~~

~~(E) The name and address of any person who contributed a total of more than \$250 between the first day of the preceding calendar year, and the disclosure date, and whose political contributions were made for the purpose of furthering the expenditure.~~

~~(F) With regard to the contributors required to be listed pursuant to paragraph (E) of this subdivision, the statement shall also include:~~

~~(i) The month, day and year that the contributions of any single contributor exceeded \$250;~~

~~(ii) If the contributor is a political action committee, the name and address the political action committee registered with the Secretary of State, county clerk or municipal clerk;~~

~~(iii) If the contributor is an individual, the name and address of the individual, his or her occupation, the name and address of the individual's current employer, if any, or, if the individual is self-employed, the name and address of the individual's business, if any;~~

~~(iv) A description of the contribution, if other than money; and~~

~~(v) The value in dollars and cents of the contribution.~~

~~(G) (1) A certification that such independent expenditure was not "made in coordination" or otherwise a coordinated contribution as defined in section one-c of this article.~~

~~(2) Any person who makes a contribution for the purpose of funding an independent expenditure under this subsection shall, at the time the contribution is made, provide his or her name, address, occupation, his or her current employer, if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of the contribution.~~

~~(3) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, or for, or against each candidate, as reported under this subsection, and for periodically publishing such indices on a timely preelection basis.~~

~~(c) (1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating \$1,000 or more for any statewide, legislative or multicounty judicial candidate or \$500 or more for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the fifteenth day, but more than twelve hours, before the date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within twenty-four hours: *Provided*, That a person making expenditures in the amount of \$1,000 or more for any statewide or legislative candidate on or after the fifteenth day but more than twelve hours before the day of any election shall report such expenditures in accordance with section two-b of this article and shall not file an additional report as provided herein.~~

~~(2) Any person who files a report under subdivision (1) of this subsection, shall file an additional report within twenty-four hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$500 with respect to the same election, for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, as that to which the initial report relates.~~

~~(d) (1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating \$10,000 or more at any time up to and including the fifteenth day before the date of an election shall file a report on a form prescribed by the Secretary of State, describing the expenditures within forty-eight hours.~~

~~(2) A person who files a report under subdivision (1) of this subsection, the person shall file an additional report within forty-eight hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.~~

~~(e) (c)~~ Any communication paid for by an independent expenditure must include a clear and conspicuous public notice that:

(1) Clearly states that the communication is not authorized by the candidate or the candidate's committee; and

(2) Clearly identifies the person making the expenditure, as required by section fourteen of this article; ~~Provided, That if the communication appears on or is disseminated by broadcast, cable or satellite transmission, the statement required by this subsection must be both spoken clearly and appear in clearly readable writing at the end of the communication.~~

~~(f) (d)~~ Any person who has spent a total of \$5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications during any calendar year shall maintain all financial records and receipts related to such expenditure for a period of six months following the filing of a disclosure pursuant to subsection (a) of this section and, upon request, shall make such records and receipts available to the Secretary of State or county clerk for the purpose of an audit as provided in section seven of this article.

~~(g) (e)~~ Any person who willfully fails to comply with this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one year, or both fined and confined.

~~(h) (f)~~ (1) Any person who is required to file a statement under this section may file the statement by facsimile device or electronic mail, in accordance with such rules as the Secretary of State may promulgate.

(2) The Secretary of State shall make any document filed electronically pursuant to this subsection accessible to the public on the Internet not later than twenty-four hours after the document is received by the secretary.

(3) In promulgating a rule under this subsection, the secretary shall provide methods, other than requiring a signature on the document being filed, for verifying the documents covered by the rule. Any document verified under any of the methods shall be treated for all purposes, including penalties for perjury, in the same manner as a document verified by signature.

~~(i) (g)~~ This section does not apply to candidates for federal office.

~~(j) (h)~~ The Secretary of State may promulgate emergency and legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to establish guidelines for the administration of this section.

§3-8-3. Committee treasurers; required to receive and disburse funds.

Every political committee shall appoint and retain a treasurer to receive, keep and disburse all sums of money which may be collected or received by such committee, or by any of its members, for election expenses, and, unless such treasurer is first appointed and thereafter retained, it shall be unlawful for any such committee or any of its members to collect, receive or disburse money for any such purposes. All moneys collected or received by any such committee, or by any of its members, for election expenses shall be paid over to, and pass through the hands of, the treasurer, and shall be disbursed by ~~him~~ the treasurer, and it shall be unlawful for any such committee, or any of its members, to disburse any money for election expenses unless such money shall be paid to, and disbursed by, the treasurer. The same person may be designated to act as treasurer for two or more political party committees. This section creates no obligation upon any entity or individual, other than a political committee as defined in this article.

§3-8-4. Treasurers and financial agents; written designation requirements.

(a) No person may act as the treasurer of any political action committee or political party committee supporting, aiding or opposing the nomination, election or defeat of any candidate for an office encompassing an election district larger than a county unless a written statement of organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State at least twenty-eight days before the election at which that person is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard time, of that day or, if mailed, is postmarked before that hour. The form shall include the name of the political action committee or political party committee; the name of the treasurer; the mailing address, telephone number and e-mail address, if applicable, of the committee and of the treasurer if different from the committee information; the chairman of the committee; the affiliate organization, if any; type of committee affiliation, as defined in subdivisions (21) and ~~(24)~~ (25), section one-a of this article, if any; and whether the committee will participate in statewide, county or municipal elections. The form shall be certified as accurate and true and signed by the chairman and the treasurer of the committee: *Provided*, That a change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(b) No person may act as the treasurer for any candidate for nomination or election to any statewide office, or to any office encompassing an election district larger than a county or to any legislative office unless a written statement designating that person as the treasurer or financial agent is filed with the Secretary of State at least twenty-eight days before the election at which that person is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard time, of that day or if mailed, is postmarked before that hour: *Provided*, That a change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(c) No person may act as treasurer of any committee or as financial agent for any candidate to be nominated or elected by the voters of a county or a district therein, except legislative candidates, or as the financial agent for a candidate for the nomination or election to any other office, unless a written statement designating him or her as the treasurer or financial agent is filed with the clerk of the county commission at least twenty-eight days before the election at which he or she is to act and is received before midnight, eastern standard time, of that day or if mailed, is postmarked before that hour: *Provided*, That a change of treasurer may be made at any time by filing a written statement with the clerk of the county commission.

(d) Notwithstanding the provisions of subsections (a), (b) and (c) of this section, a filing designating a treasurer for a state or county political executive committee may be made any time before the committee either accepts or spends funds. Once a designation is made by a state or county political executive committee, no additional designations are required under this section until a successor treasurer is designated. A state or county political executive committee may terminate a designation made pursuant to this section by making a written request to terminate the designation and by stating in the request that the committee has no funds remaining in the committee's account. This written request shall be filed with either the Secretary of State or the clerk of the county commission as provided by subsections (a), (b) and (c) of this section.

(e) This section creates no obligation upon any entity or person other than a political action committee, political party committee, candidate, or treasurer or financial agent for any candidate as described in this section.

§3-8-5. Detailed accounts and verified financial statements required.

(a) Every candidate, treasurer, person and association of persons, organization of any kind, including every membership organization or corporation, directly, or by an independent expenditure, supporting a political committee established pursuant to paragraph (C), subdivision (1), subsection ~~(b)~~(c), section eight of this article or engaging in other activities permitted by this section and also including the treasurer or equivalent officer of the association or organization, expressly advocating the election or defeat of a clearly identified candidate for state, district, county or municipal office, and the treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, liabilities incurred, by the candidate, financial agent, person, association or organization or political committee, for political purposes, or by any of the officers or members of the committee, or any person acting under its authority or on its behalf.

(b) Every ~~person or association of persons~~ candidate or political committee required to keep detailed accounts under this section shall file with the officers hereinafter prescribed a detailed itemized sworn statement:

(1) Of all financial transactions, whenever the total exceeds \$500, which have taken place before the last Saturday in March, to be filed within six days thereafter and annually whenever the total of all financial transactions ~~relating to an election~~ for each candidate or political committee exceeds \$500;

(2) Of all financial transactions which have taken place before the ~~fifteenth~~ tenth day preceding each primary or other election and subsequent to the previous statement, if any, to be filed within four business days after the ~~fifteenth~~ tenth day;

(3) Of all financial transactions which have taken place before the thirteenth day after each primary or other election and subsequent to the previous statement, if any, to be filed within twenty business days after the thirteenth day; and

(4) Of all financial transactions, whenever the total exceeds \$500 or whenever any loans are outstanding, which have taken place before the forty-third day preceding the general election day, to be filed within four business days after the forty-third day.

(c) Every person who announces as a write-in candidate for any elective office and his or her financial agent or election organization of any kind shall comply with all of the requirements of this section after public announcement of the person's candidacy has been made.

(d) For purposes of this section, the term "financial transactions" includes all political contributions or loans received and all repayments of loans or expenditures made ~~to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election or defeat of any candidate to be voted on~~ political committee.

(e) Candidates for the office of conservation district supervisor elected pursuant to the provisions of article twenty-one-a, chapter nineteen of this code are required to file only the reports required by subdivisions (2) and (3), subsection (b) of this section immediately prior to and after the primary election. ~~Provided, That during the election in the year 2008, the statements required by this subsection shall be filed immediately prior to and after the general election.~~

§3-8-5a. Information required in financial statement.

(a) Each financial statement required by the provisions of this article, other than a disclosure of electioneering communications pursuant to section two-b of this article, shall contain only the following information:

(1) The name, residence and mailing address and telephone number of each candidate, financial agent, treasurer or person and the name, address and telephone number of each association, organization or committee filing a financial statement.

(2) The balance of cash and any other sum of money on hand at the beginning and the end of the period covered by the financial statement.

(3) The name of any person making a political contribution and the amount of the contribution. If the total contributions of any one person in any one election cycle amount to more than \$250, the residence and mailing address of the contributor and, if the contributor is an individual, his or her major business affiliation and occupation shall also be reported. A contribution totaling more than \$50 of currency of the United States or currency of any foreign country by any one contributor is prohibited and a violation of section five-d of this article. The statement on which contributions are required to be reported by this subdivision may not distinguish between contributions made by individuals and contributions made by partnerships, firms, associations, committees, organizations or groups.

(4) The total amount of political contributions received during the period covered by the financial statement.

(5) The name, residence and mailing address of any individual or the name and mailing address of each lending institution making a loan or of the spouse cosigning a loan, as appropriate, the amount of any loan received, the date and terms of the loan, including the interest and repayment schedule, and a copy of the loan agreement.

(6) The name, residence and mailing address of any individual or the name and mailing address of each partnership, firm, association, committee, organization or group having previously made or cosigned a loan for which payment is made or a balance is outstanding at the end of the period, together with the amount of repayment on the loan made during the period and the balance at the end of the period.

(7) The total outstanding balance of all loans at the end of the period.

(8) The name, residence and mailing address of any person to whom each expenditure was made or liability incurred, including expenditures made on behalf of a candidate or political committee that otherwise are not made directly by the candidate or political committee, together with the amount and purpose of each expenditure or liability incurred and the date of each transaction.

(9) The total expenditure for the nomination, election or defeat of a candidate or any person supporting, aiding or opposing the nomination, election or defeat of any candidate in whose behalf an expenditure was made or a contribution was given for the primary or other election.

(10) The total amount of expenditures made during the period covered by the financial statement.

(b) Any unexpended balance at the time of making the financial statements herein provided for shall be properly accounted for in that financial statement and shall appear as a beginning balance in the next financial statement.

(c) Each financial statement required by this section shall contain a separate section setting forth the following information for each fundraising event held during the period covered by the financial statement:

(1) The type of event, date held and address and name, if any, of the place where the event was held.

(2) All of the information required by subdivision (3), subsection (a) of this section.

(3) The total of all moneys received at the fundraising event.

(4) The expenditures incident to the fundraising event.

(5) The net receipts of the fundraising event.

(d) When any lump sum payment is made to any advertising agency or other disbursing person who does not file a report of detailed accounts and verified financial statements as required in this section, such lump sum expenditures shall be accounted for in the same manner as provided for herein.

(e) Any political contribution or political expenditure made, pursuant to section ten of this article, by or on behalf of a candidate for public office to any other candidate or committee for a candidate for any public office in the same election shall be accounted for in accordance with the provisions of this section.

(f) No person may make any political contribution except from his, her or its own funds, unless such person discloses in writing to the person required to report under this section the name, residence, mailing address, major business affiliation and occupation of the person which furnished the funds to the contributor. All such disclosures shall be included in the statement required by this section.

(g) Any firm, association, committee or fund permitted by section eight of this article to be a political committee shall disclose on the financial statement its corporate or other affiliation.

(h) No political contribution may be made, directly or indirectly, in a fictitious name, anonymously or by one person through an agent, relative or other person so as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment of the contributor's identity.

(i) No person may accept any political contribution for ~~the purpose of influencing the nomination, election or defeat of a any candidate or for the passage or defeat of any ballot issue~~ unless the identity of the donor and the amount of the contribution is known and reported.

(j) When any person receives an anonymous contribution which cannot be returned because the donor cannot be identified, that contribution shall be donated to the General Revenue Fund of the state. Any anonymous contribution shall be recorded as such on the candidate's financial statement, but may not be expended for election expenses. At the time of filing, the financial statement shall include a statement of distribution of anonymous contributions, which total amount shall equal the total of all anonymous contributions received during the period.

(k) Any membership organization which raises funds for political purposes by payroll deduction, assessing them as part of its membership dues or as a separate assessment, may report the amount raised as follows:

(1) If the portion of dues or assessments designated for political purposes equals \$25 or less per member over the course of a calendar year, the total amount raised for political purposes through membership dues or assessments during the period is reported by showing the amount required to be paid by each member and the number of members.

(2) If the total payroll deduction for political purposes of each participating member equals \$25 or less over the course of a calendar or fiscal year, as specified by the organization, the organization shall report the total amount received for political purposes through payroll deductions during the reporting period and, to the maximum extent possible, the amount of each yearly payroll deduction contribution level and the number of members contributing at each such specified level. The membership organization shall maintain records of the name and yearly payroll deduction amounts of each participating member.

(3) If any member contributes to the membership organization through individual voluntary contributions by means other than payroll deduction, membership dues or assessments as provided in this subsection, the reporting requirements of subdivision (3), subsection (a) of this section shall apply. Funds raised for political purposes must be segregated from the funds for other purposes and listed in its report.

(l) Notwithstanding the provisions of section five of this article or of the provisions of this section to the contrary, an alternative reporting procedure may be followed by a political party committee in filing financial reports for fundraising events if the total profit does not exceed \$5,000 per year. A political party committee may report gross receipts for the sale of food, beverages, services, novelty items, raffle tickets or memorabilia, except that any receipt of more than \$50 from an individual or organization shall be reported as a contribution. A political party committee using this alternative method of reporting shall report:

(+) (1) The name of the committee;

- (ii) (2) The type of fund-raising activity undertaken;
- (iii) (3) The location where the activity occurred;
- (iv) (4) The date of the fundraiser;
- (v) (5) The name of any individual who contributed more than \$50 worth of items to be sold;
- (vi) (6) The name and amount received from any person or organization purchasing more than \$50 worth of food, beverages, services, novelty items, raffle tickets or memorabilia;
- (vii) (7) The gross receipts of the fundraiser; and
- (viii) (8) The date, amount, purpose and name and address of each person or organization from whom items with a fair market value of more than \$50 were purchased for resale.

§3-8-5b. Where financial statements shall be filed; filing date prescribed.

~~(a) The financial statements provided for in this article shall be filed, by or on behalf of candidates, with:~~

~~(1) The Secretary of State for legislative offices, circuit judge and family court judge, and for statewide and other offices to be nominated or elected by the voters of a political division greater than a county;~~

~~(2) The clerk of the county commission by candidates for offices to be nominated or elected by the voters of a single county or a political division within a single county except circuit judge and family court judge; or~~

~~(3) The proper municipal officer by candidates for office to be nominated or elected to municipal office.~~

~~(b) The statements may be filed by mail, in person, or by facsimile or other electronic means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture and Supreme Court of Appeals shall be filed electronically by the means of an Internet program that has been established by the Secretary of State on forms or in a format prescribed by the Secretary of State: *Provided, however*, That after January 1, 2018, unless a committee has been granted an exemption in case of hardship pursuant to subsection (c) of this section, all such statements required to be filed with the Secretary of State, on or behalf of a candidate for any elective office, shall be filed electronically by means of the internet program that has been established by the Secretary of State. If through or by no fault of the candidate, the candidate is unable to file the campaign financial statement, the candidate shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity.~~

~~(c) Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.~~

~~(d) For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of that office.~~

~~(e) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the internet by the Secretary of State within ten business days from the date the financial statement is filed.~~

(a) The financial statements provided for in this article shall be filed, by or on behalf of candidates, with:

(1) The Secretary of State for legislative offices, circuit judge, family court judge, and for statewide and other offices to be nominated or elected by the voters of a political division greater than a county;

(2) The clerk of the county commission by candidates for offices to be nominated or elected by the voters of a single county or a political division within a single county, except for legislative offices, circuit judge and family court judge; or

(3) The proper municipal officer by candidates for office to be nominated or elected to municipal office.

(b) Financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, State Senate, House of Delegates, Supreme Court of Appeals, circuit judge and family court judge shall be filed electronically by the means of an Internet program to be established by the Secretary of State. Candidates for House of Delegates, State Senate, circuit judge and family court judge may file financial statements in person, or by facsimile or other electronic means of submission until the total amount of contributions received by the candidate exceeds \$10,000 for the election cycle. The Secretary of State shall charge a \$25 processing fee for any financial statements that are not filed electronically.

(c) Committees required to report electronically may apply to the state Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

(d) Candidates for all other offices than those identified in subsection (b) of this section may file statements by mail, in person or by facsimile or other electronic means of transmission. For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of such office.

(e) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the Internet by the Secretary of State within ten business days from the date the financial statement was filed.

(f) The Secretary of State shall maintain an online searchable database accessible to the public on the Secretary of State's website. The database shall include the ability to search contribution and expenditure data submitted by candidates and political action committees. Information capable of search shall include, but not be limited to, a contributor's first name, last name, city, state, occupation, employer, contribution amount, date, expenditure payee, payer, city state, purpose and amount.

§3-8-5c. Contribution limitations to candidate committees; indexing of candidate's committee thresholds; prohibition against contributions by foreign nationals.

(a) Except as provided in section eight of this article, a person, political party or political action committee may not:

(1) Contribute more than \$2,700, as adjusted pursuant to subsection (c) of this section, directly to a candidate's committee for a candidate seeking nomination; or

(2) Contribute more than \$2,700, as adjusted pursuant to subsection (c) of this section, directly to a candidate's committee for a candidate seeking election: *Provided*, That no candidate may receive contributions for the general election until he or she has been nominated.

(b) The contribution limits contained in subsection (a) 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.

(c) Notwithstanding the provisions of subsection (a) of this section to the contrary, an individual may not, directly or indirectly, make contributions to a state party executive committee, or subsidiary thereof, or state party legislative caucus committee which, in the aggregate, exceed the value of \$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 section 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 shall not be binding on the entity that receives the contribution.

(d) On the last day of every calendar year in which an election for House of Delegates is held, the Secretary of State shall adjust the dollar values for the fixed dollar amounts for limitations on contributions under this chapter by comparing the percentage increase or decrease in the consumer price index by the corresponding consumer price index since the same date after the last such regular election year, as determined by the most comprehensive index of consumer prices available for West Virginia from the Bureau of Labor Statistics of the United States Department of Labor. The Secretary of State shall multiply these thresholds by that percentage change in the consumer price index, and shall round up each dollar value adjustment made to the nearest \$100. The State Election Commission shall announce the adjustments made under this subsection within thirty days after the relevant index of consumer prices is published.

(e) *Prohibition against contributions by foreign nationals.* —

(1) It shall be unlawful for:

(A) A foreign national, directly or indirectly, to make:

(i) A contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a state or local election;

(ii) A contribution or donation to a committee of a political party; or

(iii) A political expenditure, independent expenditure or disbursement for an electioneering communication, as those terms are defined in this article; or

(B) A person to solicit, accept or receive a contribution or donation described in subparagraph (i) or (ii), paragraph (A) of this subdivision.

(2) As used in this section, the term "foreign national" means:

(A) A foreign principal, as such term is defined in 22 U. S. C. § 611(b), which includes:

(i) A government of a foreign country;

(ii) A foreign political party;

(iii) A person outside of the United States, unless it is established that such person:

(I) Is an individual and a citizen of the United States; or

(II) That such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(iv) A partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country; and

(B) An individual who is not a citizen of the United States or a national of the United States, as defined in 8 U. S. C. §1101(a)(22), and who is not lawfully admitted for permanent residence, as defined by 8 U. S. C. §1101(a)(20).

§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.

(a) Any ~~person, candidate, financial agent~~ or treasurer of a political party committee who fails to file a sworn, itemized statement required by this article within the time limitations specified in this article or who willfully files a grossly incomplete or grossly inaccurate statement shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one year, or both, fined and confined. Sixty days after any primary or other election, the Secretary of State, county clerk or municipal recorder, as the case may be, shall give notice of any failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent or treasurer of a political party committee and forward copies of any grossly incomplete or grossly inaccurate statement to the prosecuting attorney of the county where the person, candidate, financial agent, or treasurer resides, is located or has its principal place of business.

(b) (1) Any ~~person, candidate, financial agent~~ or treasurer of a political party committee who fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete

or grossly inaccurate statement ~~may~~ shall be assessed a civil penalty by the Secretary of State of ~~\$25~~ \$10 a day for each day after the due date the statement is delinquent, grossly incomplete or grossly inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent or treasurer of a political party committee and forward copies of such delinquent, incomplete or inaccurate statements to the Secretary of State.

(2) A civil penalty assessed pursuant to this section shall be payable to the state of West Virginia and is collectable as authorized by law for the collection of debts.

(3) The Secretary of State may negotiate and enter into settlement agreements for the payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete or inaccurate statement.

(4) The Secretary of State shall publish online a list of all late filing violators for each deadline in an election cycle. This list shall be maintained and be publicly available online to include late activity for the previous five years to the current year.

~~(4)~~ (5) The Secretary of State and county clerk may review and audit any sworn statement required to be filed pursuant to this article. The State Election Commission shall propose legislative rules for promulgation, in accordance with chapter twenty-nine-a of this code, to establish procedures for the assessment of civil penalties as provided in this section.

(c) (1) Any candidate, whether nominated by primary election or appointed by executive committee or executive committee chair, who has failed to file any sworn statement as required by this article, relating to the immediately preceding primary election for any office by the eighty-fourth day before the general election, is disqualified and may not have his or her name appear on the general election ballot. The provisions of subsection (d), section five-b of this article notwithstanding, any sworn statement filed after the deadline required by section five of this article must be received in the office indicated by subsection (a), section five-b of this article by the close of business on the eighty-fourth day before the general election.

(2) It is unlawful to issue a commission or certificate of election, or to administer the oath of office, to any person elected to any public office who has failed to file any sworn statement required by this article and no person may enter upon the duties of his or her office until he or she has filed such statement, nor may he or she receive any salary or emolument for any period prior to the filing of the statement.

(3) The vacancy on the ballot created by the disqualification in this subsection is subject to section nineteen, article five, chapter three of this code.

(d) As used in this section, "grossly" means substantive and material, and specifically includes false or misleading representations and acts of omissions.

(e) The Secretary of State shall provide by rule protocols for written notice via certified mail, return receipt requested, to the person, candidate, financial agent or treasurer of a political party committee that is not in compliance with the requirements of this section. With respect to a violation of subsection (c) of this section, the notice shall be provided sixty days after any primary or other election.

§3-8-8. Corporation and membership organization contributions forbidden; exceptions; penalties; promulgation of rules; additional powers of State Election Commission.

(a) An officer, agent or person acting on behalf of any membership organization or any corporation, whether incorporated under the laws of this or any other state or of a foreign country, may not pay, give, lend or authorize to be paid any money or other thing of value belonging to the corporation to any candidate or candidate's campaign for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(b) A person may not solicit or receive any payment, contribution or other thing from any membership organization or corporation or from any officer, agent or other person acting on behalf of the membership organization or corporation to any candidate or candidate's campaign for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(c) (1) The provisions of this section do not prohibit a membership organization or corporation from soliciting, through any officer, agent or person acting on behalf of the membership organization or corporation, contributions to a separate segregated fund to be used for political purposes. Any separate segregated fund is considered a political action committee for the purpose of this article and is subject to all reporting requirements applicable to political action committees;

(2) It is unlawful for:

(A) A membership organization, corporation or separate segregated fund to make a primary or other election contribution or expenditure by using money or anything of value secured: (i) By physical force, job discrimination or financial reprisal; (ii) by the threat of force, job discrimination or financial reprisal; or (iii) as a condition of employment;

(B) Any person soliciting a membership organization member, stockholder or executive or administrative personnel and members of their families for a contribution to a membership organization, corporation or separate segregated fund to fail to inform the person solicited of the political purposes of the separate segregated fund at the time of the solicitation;

(C) Any person soliciting any other person for a contribution to a membership organization, corporation or separate segregated fund to fail to inform the person solicited at the time of the solicitation of his or her right to refuse to contribute without any reprisal;

(D) A separate segregated fund established by a membership organization or corporation: (i) To solicit contributions to the fund from any person other than the membership organization's members or the corporation's stockholders, ~~and~~ their families and ~~its~~ their executive or administrative personnel and their families; or (ii) to contribute any membership organization or corporate funds;

(E) A separate segregated fund established by a membership organization or corporation to receive contributions to the fund from any person other than the membership organization's members or corporation's stockholders, ~~and~~ their immediate families and ~~its~~ their executive or administrative personnel and their immediate families;

(F) A membership organization or corporation to engage in job discrimination or to discriminate in job promotion or transfer because of a member's or an employee's failure to make a contribution to the membership organization or corporation or a separate segregated fund;

(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of ~~\$1,000~~ the amounts permitted in section five-c of this article in connection with or on behalf of any campaign for nomination or election to any elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing, supporting or aiding the nomination or election of any candidate for any such office;

(H) A membership organization or corporation to pay, give or lend or to authorize payment, giving or lending of any moneys or other things of value belonging to the membership organization or corporation to a separate segregated fund for the purpose of making a contribution to a candidate or a candidate's committee. This provision does not prohibit a separate segregated fund from using the property, real or personal, facilities and equipment of a membership organization or corporation solely to establish, administer and solicit contributions to the fund, subject to the rules of the State Election Commission as provided in subsection (d) of this section: *Provided*, That any such membership organization or corporation shall also permit any group of its employees represented by a bona fide political action committee to use the real property of the membership organization or corporation solely to establish, administer and solicit contributions to the fund of the political action committee, subject to the rules of the State Election Commission promulgated in accordance with said subsection.

(3) For the purposes of this section, the term "executive or administrative personnel" means individuals employed by a membership organization or corporation who are paid on a salary rather than hourly basis and who have policy-making, managerial, professional or supervisory responsibilities.

(d) Any person, membership organization or corporation violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000. A membership organization or corporation may not reimburse any person the amount of any fine imposed pursuant to this section.

(e) To ensure uniform administration and application of the provisions of this section and of those of the Federal Election Campaign Act Amendments of 1976 relating to membership organization and corporate contributions, the State Election Commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this section consistent, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission to carry out similar or identical provisions of 2 U. S. C. §441b.

(f) In addition to the powers and duties set forth in article one-a of this chapter, the State Election Commission has the following powers and duties:

(1) To investigate, upon complaint or on its own initiative, any alleged violations or irregularities of this article.

(2) To administer oaths and affirmations, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum to compel the production of books, papers, records and all other evidence necessary to any investigation.

(3) To involve the aid of any circuit court in the execution of its subpoena power.

(4) To report any alleged violations of this article to the appropriate prosecuting attorney having jurisdiction, which prosecuting attorney shall present to the grand jury such alleged violations, together with all evidence relating thereto, no later than the next term of court after receiving the report.

(g) The Attorney General shall, when requested, provide legal and investigative assistance to the State Election Commission.

(h) Any investigation, either upon complaint or initiative, shall be conducted in an executive session of the State Election Commission and shall remain undisclosed except upon an indictment by a grand jury.

(i) Any person who discloses the fact of any complaint, investigation or report or any part thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and shall be confined in jail not less than six months nor more than one year.

~~(j) The amendments to this section enacted during the second extraordinary session of 2008 are intended to conform to the existing proscription to constitutionally permissible limits and not to create a new offense or offenses.~~

~~(k) The effective date of the amendments to this section enacted during the second extraordinary legislative session of 2008 is October 1, 2008.~~

§3-8-8a. Disclosure requirements for covered organizations.

(a) Disclosure statement. —

(1) Any covered organization that makes political disbursements aggregating more than \$1,000 in a calendar year shall, not later than forty-eight hours after the \$1,000 threshold is met, file a statement with the Secretary of State that contains the information described in subdivision (2) of this subsection. Subsequent reports shall be filed within forty-eight hours of each additional campaign-related political expenditure aggregating more than \$1,000:

(A) In the case of the first statement filed under this subsection, for the period beginning on the first day of the preceding calendar year and ending on the first such disclosure date; and

(B) In the case of any subsequent statement filed under this subsection, for the period beginning on the previous disclosure date and ending on such disclosure date.

(2) The information to be included in the statement required by this subsection is as follows:

(A) The name of the covered organization and the principal place of business of that organization.

(B) The amount of each campaign-related disbursement made by that organization during the period covered by the statement of more than \$1,000.

(C) In the case of a campaign-related disbursement that is not a covered transfer, the election to which the campaign-related disbursement pertains and, if the disbursement is made for a public communication, the name of any candidate identified in that communication and whether that communication is in support of or in opposition to that candidate.

(D) A certification by the chief executive officer or the head of the covered organization that the campaign-related disbursement is not made in cooperation, consultation or concert with or at the request or suggestion of a candidate, authorized committee or agent of a candidate, political party, or agent of a political party.

(E) If the covered organization makes campaign-related disbursements exclusively using funds in a segregated bank account consisting of funds that were contributed, donated, transferred or paid directly to that account by persons other than the covered organization that controls the account, for each contribution, donation, transfer, payment of dues or other payment to the account:

(i) The name and address of each person who made that contribution, donation, transfer, payment of dues or other payment during the period covered by the statement: Provided, That if an individual's contribution is \$250 or less, then the individual's name alone should be reported;

(ii) The date and amount of that contribution, donation, transfer, payment of dues or other payment; and

(iii) The aggregate amount of all those contributions, donations, transfers, payments of dues and other payments made by the person during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(F) Subject to subdivision (4) of this subsection, if the covered organization makes campaign-related disbursements using funds other than funds in a segregated bank account described in paragraph (E) of this subdivision, for each contribution, donation, transfer or payment of dues to the covered organization:

(i) The name and address of each person who made that contribution, donation, transfer or payment of dues during the period covered by the statement: Provided, That if an individual's contribution is \$250 or less, then the individual's name alone should be reported;

(ii) The date and amount of that contribution, donation, transfer or payment of dues; and

(iii) The aggregate amount of all those contributions, donations, transfers and payments of dues made by the person during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) Exceptions. —

(A) The requirement to include in a statement filed under subdivision (1) of this subsection the information described in subdivision (1) of this subsection does not apply to amounts received by the covered organization in the ordinary course of any trade or business conducted by the covered organization or in the form of investments in the covered organization.

(B) Donor restriction on use of funds. — The requirement to include in a statement submitted under subdivision (1) of this subsection the information described in paragraph (F), subdivision (2) of this subsection does not apply if:

(i) The person described in that subdivision prohibited, in writing, the use of the contribution, donation, transfer, payment of dues or other payment made by that person for campaign-related disbursements; and

(ii) The covered organization agreed to follow the prohibition and deposited the contribution, donation, transfer, payment of dues or other payment in an account which is segregated from any account used to make campaign-related disbursements.

(4) Disclosure date. —

(A) Except as provided in paragraph (B) of this subdivision, the term “disclosure date” means:

(i) The first date during any calendar year by which a person has made campaign-related disbursements aggregating more than \$1,000; and

(ii) Each date following the date described in subparagraph (i) of this paragraph during that calendar year by which a person has made campaign-related disbursements aggregating more than \$1,000.

(B) In the case of a statement filed with respect to a campaign-related disbursement which is a covered transfer described in paragraph (E), subdivision (1), subsection (f) of this section, the term “disclosure date” means the date on which the covered organization making that transfer knew or should have known that the recipient of that transfer made campaign-related disbursements in an aggregate amount of \$50,000 or more during the two-year period beginning on the date of the transfer.

(b) Coordination with other provisions. — A segregated bank account referred to in paragraph (E), subdivision (2), subsection (a) of this section may be treated as a separate segregated fund for purposes of section 527(f)(3) of the Internal Revenue Code of 1986.

(c) Filing. — Statements required to be filed under subsection (a) of this section shall be subject to the requirements of subsection (h), section two of this article to the same extent and in the same manner as if those reports had been required under said section.

(d) Campaign-related disbursement defined. — As used in this section, the term “campaign-related disbursement” means a disbursement by a covered organization for any of the following:

(1) An independent expenditure consisting of a public communication, as defined in section two of this article;

(2) An electioneering communication, as defined in section two of this article; or

(3) A covered transfer.

(e) Covered organization defined. — In this section, the term “covered organization” means any of the following:

(1) A membership organization, corporation and any other legal entity, including, but not limited to, a limited liability company, limited liability partnership, cooperative, estate, trust, partnership or other legal entity authorized to exist by the laws of this state, another state or the federal government;

(2) An organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that code;

(3) Any political organization under section 527 of the Internal Revenue Code of 1986, other than a political committee under this article, except as provided in subdivision (4) of this subsection; or

(4) A political committee with an account established for the purpose of accepting donations or contributions that do not comply with the contribution limits or source prohibitions under this article, but only with respect to the accounts established for that purpose.

(f) Covered transfer defined. —

(1) General. — In this section, the term “covered transfer” means any transfer or payment of funds by a covered organization to another person if the covered organization:

(A) Designates, requests or suggests that the amounts be used for:

(i) Campaign-related disbursements other than covered transfers; or

(ii) Making a transfer to another person for the purpose of making or paying for that campaign-related disbursements;

(B) Made that transfer or payment in response to a solicitation or other request for a donation or payment for:

(i) The making of or paying for campaign-related disbursements other than covered transfers;
or

(ii) Making a transfer to another person for the purpose of making or paying for those campaign-related disbursements;

(C) Engaged in discussions with the recipient of the transfer or payment regarding:

(i) The making of or paying for campaign-related disbursements other than covered transfers;
or

(ii) Donating or transferring any amount of that transfer or payment to another person for the purpose of making or paying for those campaign-related disbursements;

(D) Made campaign-related disbursements other than a covered transfer in an aggregate amount of \$50,000 or more during the two- year period ending on the date of the transfer or payment, or knew or had reason to know that the person receiving the transfer or payment made those disbursements in that an aggregate amount during that two-year period; or

(E) Knew or had reason to know that the person receiving the transfer or payment would make campaign-related disbursements in an aggregate amount of \$50,000 or more during the two-year period beginning on the date of the transfer or payment.

(2) The term “covered transfer” does not include any of the following:

(A) A disbursement made by a covered organization in the ordinary course of any trade or business conducted by the covered organization or in the form of investments made by the covered organization.

(B) A disbursement made by a covered organization if:

(i) The covered organization prohibited, in writing, the use of that disbursement for campaign-related disbursements; and

(ii) The recipient of the disbursement agreed to follow the prohibition and deposited the disbursement in an account which is segregated from any account used to make campaign-related disbursements.

(3) Exception for certain transfers among affiliates. —

(A) The term “covered transfer” does not include an amount transferred by one covered organization to another covered organization which is treated as a transfer between affiliates under paragraph (B) of this subdivision if the aggregate amount transferred during the year by that covered organization to that same covered organization is equal to or less than \$50,000.

(B) A transfer of amounts from one covered organization to another covered organization shall be treated as a transfer between affiliates if:

(i) One of the organizations is an affiliate of the other organization; or

(ii) Each of the organizations is an affiliate of the same organization; except that the transfer shall not be treated as a transfer between affiliates if one of the organizations is established for the purpose of making campaign-related disbursements.

(C) For purposes of paragraph (B) of this subdivision, a covered organization is an affiliate of another covered organization if:

(i) The governing instrument of the organization requires it to be bound by decisions of the other organization;

(ii) The governing board of the organization includes persons who are specifically designated representatives of the other organization or are members of the governing board, officers or paid executive staff members of the other organization, or whose service on the governing board is contingent upon the approval of the other organization; or

(iii) The organization is chartered by the other organization.

(D) This subdivision applies with respect to an amount transferred by a covered organization to an organization described in paragraph (3), section 501(c) of the Internal Revenue Code of

1986 and exempt from tax under section 501(a) of that code in the same manner as this paragraph applies to an amount transferred by a covered organization to another covered organization.

(g) Any person who makes a contribution for the purpose of funding an independent expenditure under this section shall, at the time the contribution is made, provide his or her name, address, occupation, his or her current employer, if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of the contribution.

(h) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, or for, or against each candidate, as reported under this subsection, and periodically publish such indices on a timely preelection basis.

(i) Any person who willfully fails to comply with this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one year, or both fined and confined.

(j) (1) Any person who is required to file a statement under this section may file the statement by facsimile device or electronic mail, in accordance with such rules as the Secretary of State may promulgate.

(k) The Secretary of State shall make any document filed electronically pursuant to this subsection accessible to the public on the Internet not later than twenty-four hours after the document is received by the secretary.

(l) The Secretary of State may promulgate emergency and legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to establish guidelines for the administration of this section. In promulgating a rule under this subsection, the secretary shall provide methods, other than requiring a signature on the document being filed, for verifying the documents covered by the rule. Any document verified under any of the methods shall be treated for all purposes, including penalties for perjury, in the same manner as a document verified by signature.

§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

(a) No financial agent or treasurer of a political committee shall pay, give or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(1) For rent, maintenance, office equipment and other furnishing of offices to be used as political headquarters and for the payment of necessary ~~clerks, stenographers, typists, janitors and messengers~~ employees actually employed therein;

(2) In the case of a candidate who does not maintain a headquarters, for reasonable office expenses, including, but not limited to, filing cabinets and other office equipment and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment, the rental of the use of the same, or for the payment for the shared use of same with the candidate's business and for the payment of necessary ~~clerks, stenographers and typists~~ employees actually employed;

(3) For printing and distributing books, pamphlets, circulars and other printed matter and radio and television broadcasting and painting, printing and posting signs, banners and other advertisements, including contributions to charitable, educational or cultural events, for the promotion of the candidate, or the candidate's name or an issue on the ballot;

(4) For renting and decorating halls for public meetings and political conventions, for advertising public meetings and for the payment of traveling expenses of speakers and musicians at such meetings;

(5) For the necessary traveling and hotel expenses of candidates, political agents and committees and for stationery, postage, telegrams, telephone, express, freight and public messenger service;

(6) For preparing, circulating and filing petitions for nomination of candidates;

(7) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein and conducting proceedings to prevent unlawful registration or voting;

(8) For conveying voters to and from the polls;

(9) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments and any information relating to any political issue, candidate or question or proposition submitted to a vote;

(10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation and evaluation of information reflecting public opinion, needs and preferences as to any candidate, group of candidates, party, issue or issues. No such poll shall be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition or other matter to be voted on by the public at any election: *Provided*, That nothing herein shall prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;

(11) For payment for food and drink for campaign-related purposes and for entertaining of campaign volunteers;

(12) For payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy or campaign;

(13) For the payment of any fees associated with the campaign, except that a candidate may not pay any fines assessed against the candidate or the candidate's committee pursuant to this article;

~~(14)~~ (14) For legitimate advertising agency services, including commissions, in connection with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9) and (10) of this subsection;

~~(12)~~ (15) For the purchase of memorials, flowers or citations by political party executive committees or political action committees representing a political party;

~~(13)~~ (16) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within thirty days thereafter;

~~(14)~~ (17) For the payment of dues or subscriptions to any national, state or local committee of any political party without limitation;

(18) For transfers to any national, state or local committee of any political party when that committee is acting in the role of a vendor: *Provided*, That no such transfer shall involve any coordination between the candidate and the political party committee;

~~(15)~~ (19) For contributions to a county party executive committee, state party executive committee or a state party legislative caucus political committee;

(20) For any political expenditure; and

~~(16)~~ (21) For contributions to a candidate committee: *Provided*, That a candidate committee may not contribute to another candidate committee except as otherwise provided by section ten of this article.

(b) A political action committee may not contribute to another political action committee or receive contributions from another political action committee: *Provided*, That a political action committee may receive contributions from its national affiliate, if any.

(c) Every liability incurred and payment made shall be for the fair market value of the services rendered.

(d) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by section five-a of this article, the financial statements required by section five of this article at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent or treasurer of a political party committee.

(e) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~ the candidate which shall be in such form and filed in accordance with the provisions of section four of this article.

§3-8-9a. Expenditures by political party committees, political party caucuses and state candidates.

(a) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the state committee of a political party and political party caucus may make expenditures in an amount not to exceed \$20,000 in connection with the general election campaign of candidates for Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate and House of Delegates.

(b) For purposes of this section, all communications that are made in coordination with a candidate or candidate's committee must include a statement clearly identifying that the communications were made in coordination with the candidate or candidate's committee.

§3-8-10. Use of excess campaign 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~~ \$20,000 in a calendar year; or

(D) Any local committee of any political party in an amount not to exceed \$20,000; or

(E) 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 chapter twenty-nine-a of this code, to establish guidelines for the administration of this section.

§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; public contractors; penalty.

(a) A person may not publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, radio or television advertisement or other publication supporting or aiding the election or defeat of a clearly identified candidate.

(b) An owner, publisher, editor or employee of a newspaper or other periodical may not insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election, unless directly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision of the state. An officer, agent, clerk or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office or room, occupied for any official purpose, may not knowingly permit any person to enter any building, office or room, occupied for any official purpose for the purpose of soliciting or

receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision of the state.

(d) Except as provided in section eight of this article, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly, make any contribution to any political party, committee or candidate for public office or to any person for political purposes or use; nor may any person or firm solicit any contributions for any purpose during any period.

(e) A person may not, directly or indirectly, promise any employment, position, work, compensation or other benefit provided for, or made possible, in whole or in part, by act of the Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.

(f) Except as provided in section eight of this article, a person may not, directly or indirectly, make any contribution in excess of the value of \$1,000 amounts permitted by section five-c of this article in connection with any campaign for nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting or aiding the nomination or election of any candidate for any of the offices.

~~(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its existence and of the purposes for which it was formed. During the two-year election cycle, a political organization (as defined in Section 527 (e) (1) of the Internal Revenue Code of 1986) may not accept contributions totaling more than \$1,000 from any one person prior to the primary election and contributions totaling more than \$1,000 from any one person after the primary and before the general election.~~

~~(h) It is unlawful for any person to create, establish or organize more than one political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) with the intent to avoid or evade the contribution limitations contained in subsection (g) of this section.~~

(i) ~~(h)~~ Notwithstanding the provisions of subsection (f) of this section to the contrary, a person may not, directly or indirectly, make contributions to a state party executive committee or state party legislative caucus committee which, in the aggregate, are in excess of the amounts permitted by section five-c of this article in any calendar year.

(j) ~~(i)~~ The limitations on contributions contained in this section do not apply to transfers between and among a state party executive committee or a state party's legislative caucus political committee from national committees of the same political party: *Provided*, That transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any calendar year to any state party executive committee or state party legislative caucus political committee:

Provided, however, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.

~~(k)~~ (j) A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions: *Provided,* That in no event may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution. A person may not coerce or intimidate any nonelective salaried employee into making a contribution. A person may not coerce or intimidate any nonsalaried employee of the state government or any of its subdivisions into engaging in any form of political activity. The provisions of this subsection may not be construed to prevent any employee from making a contribution or from engaging in political activity voluntarily without coercion, intimidation or solicitation.

~~(l)~~ A person may not solicit a contribution from any other person without informing the other person at the time of the solicitation of the amount of any commission, remuneration or other compensation that the solicitor or any other person will receive or expect to receive as a direct result of the contribution being successfully collected. Nothing in this subsection may be construed to apply to solicitations of contributions made by any person serving as an unpaid volunteer.

~~(m)~~ (k) A person may not place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of the approval. This subsection does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the receptacle. The term "roadside receptacle" means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers.

~~(n)~~ (l) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than one year, or both fined and confined.

~~(o)~~ (m) The provisions of subsection (k) of this section permitting contributions to a campaign for or against a county or local government ballot issue shall become operable on and after January 1, 2005.

~~(p)~~ (n) The limitations on contributions established by subsection (g) of this section do not apply to contributions made for the purpose of supporting or opposing a ballot issue, including a constitutional amendment.

§3-8-14. Publication and distribution of statements and solicitations; charge for newspaper or magazine space.

(a) Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising, or whenever any person makes a disbursement for a campaign-related disbursement, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing or any other

type of general public political advertising or makes a disbursement for an electioneering communication, that communication:

(1) If paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by that authorized political committee;

(2) If paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by those other persons and authorized by that authorized political committee; or

(3) If not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name and permanent street address, telephone number or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with that candidate's campaign, may charge any amount for that space which exceeds the amount charged for comparable use of that space for other purposes.

(c) *Specification.* — Any printed communication described in subsection (a) of this section shall:

(1) Be of sufficient type size to be clearly readable by the recipient of the communication;

(2) Be contained in a printed box set apart from the other contents of the communication; and

(3) Be printed with a reasonable degree of color contrast between the background and the printed statement.

(d) *Additional requirements.* —

(1) *Communications by candidates or authorized persons.* —

(A) *By radio.* — Any communication described in subdivision (1) or (2), subsection (a) of this section which is transmitted through radio shall include, in addition to the requirements of that subdivision, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

(B) *By television.* — Any communication described in subdivision (1) or (2), subsection (a) of this section which is transmitted through television shall include, in addition to the requirements of that subdivision, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement:

(i) Shall be conveyed by:

(I) An unobscured, full-screen view of the candidate making the statement; or

(II) The candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

(ii) Shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least four seconds.

(2) Communications by certain political committees. — Any communication described in subdivision (3), subsection (a) of this section which, except to the extent provided in the last sentence of this subdivision, is paid for by a political committee, including a political committee of a political party, and which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: “_____ is responsible for the content of this advertising.” The foregoing blank shall be filled in with the name of the political committee paying for the communication and the name of any connected organization of the payor. If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee making the statement, or by a representative of that political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least four seconds. This subdivision does not apply to a communication paid for, in whole or in part, with a payment which is treated as a campaign-related disbursement under section eight-a and with respect to which a covered organization files a statement under that section.

(e) Communications by others. —

(1) Any communication described in subdivision (3), subsection (a) of this section which is transmitted through radio or television, other than a communication to which subdivision (2), subsection (d) of this section applies, shall include, in addition to the requirements of that subdivision, the following:

(A) The individual disclosure statement described in paragraph (A), subdivision (2) of this subsection if the person paying for the communication is an individual, or the organizational disclosure statement described in paragraph (B), subdivision (2) of this subsection if the person paying for the communication is not an individual.

(B) If the communication is transmitted through television and is paid for, in whole or in part, with a payment which is treated as a campaign-related disbursement under section eight-a of this article the top five contributors list, if applicable, unless, on the basis of criteria established in rules promulgated by the Secretary of State, the communication is of such short duration that including the top five contributors list in the communication would constitute a hardship to the person paying for the communication by requiring a disproportionate amount of the content of the communication to consist of the top five contributors list.

(C) If the communication is transmitted through radio and is paid for, in whole or in part, with a payment which is treated as a campaign-related disbursement under section eight-a of this section the top two contributors list, if applicable, unless, on the basis of criteria established in rules promulgated by the secretary, the communication is of such short duration that including the top two contributors list in the communication would constitute a hardship to the person paying for the communication by requiring a disproportionate amount of the content of the communication to consist of the top two contributors list.

(2) Disclosure statements described. —

(A) Individual disclosure statements. — The individual disclosure statement described in this paragraph is the following:

“I am _____, and I approve this message.” The foregoing blank filled in with the name of the applicable individual.

(B) Organizational disclosure statements. The organizational disclosure statement described in this paragraph is the following: “I am _____, the _____ of _____, and _____ approves this message.”, with:

(i) The first blank to be filled in with the name of the applicable individual;

(ii) The second blank to be filled in with the title of the applicable individual; and

(iii) The third and fourth blanks each to be filled in with the name of the organization or other person paying for the communication.

(3) Method of conveyance of statement. —

(A) In the case of a communication to which this subsection applies which is transmitted through radio, the disclosure statements required under subdivision (1) of this subsection shall be made by audio by the applicable individual in a clearly spoken manner.

(B) In the case of a communication to which this subsection applies which is transmitted through television, the information required under subdivision (1) of this subsection:

(i) Shall appear in writing at the end of the communication or in a crawl along the bottom of the communication in a clearly readable manner, with a reasonable degree of color contrast between the background and the printed statement, for a period of at least six seconds; and

(ii) Shall also be conveyed by an unobscured, full-screen view of the applicable individual or by the applicable individual making the statement in voice-over accompanied by a clearly identifiable photograph or similar image of the individual, except in the case of a top five contributors list.

(4) Definitions. — In this subsection:

(A) “Applicable individual” means, with respect to a communication to which this subsection applies:

(i) If the communication is paid for by an individual, the individual involved;

(ii) If the communication is paid for by a corporation, the chief executive officer of the corporation or, if the corporation does not have a chief executive officer, the highest ranking official of the corporation; and

(iii) If the communication is paid for by any other person, the highest ranking official of that person.

(B) “Campaign-related disbursement” and “covered organization” have the meanings given them in section eight-a of this article.

(C) “Top five contributors list” means, with respect to a communication paid for, in whole or in part, with a payment which is treated as a campaign-related disbursement under section eight-a, a list of the five persons who provided the largest payments of any type in an aggregate amount equal to or exceeding \$1,000 which are required under subsection (a), section eight-a of this article to be included in the reports filed by a covered organization with respect to that communication during the twelve-month period ending on the date of the disbursement and the amount of the payments each such person provided. If two or more people provided the fifth largest of those payments, the covered organization involved shall select one of those persons to be included on the top five contributors list.

(D) “Top two contributors list” means, with respect to a communication paid for, in whole or in part, with a payment which is treated as a campaign related disbursement under section eight-a of this article a list of the persons who provided the largest and the second largest payments of any type in an aggregate amount equal to or exceeding \$1,000 which are required under subsection (a) of that section to be included in the reports filed by a covered organization with respect to that communication during the twelve-month period ending on the date of the disbursement and the amount of the payments each such person provided. If two or more persons provided the second largest of those payments, the covered organization involved shall select one of those persons to be included on the top two contributors list.

Following discussion,

The question being on the adoption of Senator Romano’s amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Jeffries, Miller, Ojeda, Palumbo, Prezioso, Romano, Stollings and Woelfel—10.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—24.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano’s amendment to the bill rejected.

On motion of Senator Palumbo, the following amendments to the bill (Com. Sub. for S. B. 539) were next reported by the Clerk and considered simultaneously:

On pages five through seven, by striking out all of section one and inserting a new section, designated section one, to read as follows:

§3-8-1. Provisions to regulate and control elections.

(a) The Legislature finds that:

~~(1) West Virginia’s population is 1,808,344, ranking 37th among the fifty states.~~

~~(2) State Senate districts have a population of approximately one hundred six thousand three hundred seventy-three, and the average Delegate district has a population of approximately thirty-~~

~~one thousand, one hundred seventy-eight. The size of these districts is substantially smaller than the United States Senatorial and Congressional Districts.~~

(3) When the relatively small size of the state's legislative and other voting districts is combined with the economics and typical uses of various forms of electioneering communication, history shows that nonbroadcast media is and will continue to be a widely used means of making campaign related communications to target relevant audiences. Consequently, nonbroadcast communications are prevalent during elections.

(4) Disclosure provisions are appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, and the ceilings imposed accordingly serve the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion.

(5) When narrowly tailored to minimize any infringement on the right to free speech guaranteed by the United States and West Virginia Constitutions, or upon the rights to engage in political debate and discussion, disclosure of contributions and expenditures by entities that engage in electoral advocacy is an appropriate means to safeguard the electoral process against the appearance of improper influence from large campaign expenditures.

~~(5)~~ (6) Disclosure of expenditures ~~serve~~ serves a substantial governmental interest in informing the electorate and preventing the corruption of or appearance of corruption in the political process.

~~(6)~~ (7) Disclosure by persons and entities that make expenditures for communications that expressly advocate the election or defeat of clearly identified candidates or perform its functional equivalent, is a reasonable and minimally restrictive method of furthering First Amendment values by public exposure of the state election system.

~~(7)~~ (8) Failing to regulate nonbroadcast media messages would permit those desiring to influence elections to avoid the principles and policies that are embodied in existing state law.

~~(8)~~ (9) The regulation of the various types of nonbroadcast media in addition to broadcast media, is tailored to meet the circumstances found in the State of West Virginia.

~~(9)~~ (10) Nonbroadcast media such as newspapers, magazines or other periodicals have proven to be effective means of election communication in West Virginia. Broadcast, satellite and nonbroadcast media have all been used to influence election outcomes.

~~(10)~~ (11) Certain nonbroadcast communications, such as newspaper inserts, can be more effective campaign methods than broadcast media because such communications can be targeted to registered voters or historical voters in the particular district. In contrast, broadcasted messages reach all of the general public, including person ineligible to vote in the district.

~~(11)~~ (12) Nonbroadcast media communications in the final days of a campaign can be particularly damaging to the public's confidence in the election process because they reduce or make impossible an effective response.

~~(12)~~ (13) Identifying those funding nonbroadcast media campaigns in the final days of a campaign may at least permit voters to evaluate the credibility of the message.

~~(13)~~ (14) In West Virginia, contributions up to the amounts specified in this article allow contributors to express their opinions, level of support and their affiliations.

~~(14)~~ (15) In West Virginia, campaign expenditures by entities and persons who are not candidates have been increasing. Public confidence is eroded when substantial amounts of such money, the source of which is hidden or disguised, is expended. This is particularly true during the final days of a campaign.

~~(15)~~ (16) In West Virginia, contributions to political organizations, defined in Section 527(e)(1) of the Internal Revenue Code of 1986, substantially larger than the amounts permitted to be received by a candidate's political committee have been recorded and are considered by the Legislature to be large contributions.

~~(16)~~ (17) Independent expenditures intended to influence candidates' campaigns in the state are increasingly utilizing nonbroadcast media to support or defeat candidates.

~~(17)~~ (18) Identification of persons or entities funding ~~political advertisements~~ electoral advocacy assists in enforcement of the contribution and expenditure limitations established by this article and ~~simply~~ informs voters of the actual identities of persons or entities advocating the election or defeat of candidates.

~~(18)~~ (19) Identification of persons or entities funding ~~political advertisements~~ electoral advocacy allows voters to evaluate the credibility of the message contained in the advertisement.

~~(19)~~ (20) Disclosure of the identity of persons or entities funding ~~political communications regarding candidates~~ electoral advocacy bolsters the right of listeners to be fully informed.

(b) Political campaign contributions, receipts and expenditures of money, advertising, influence and control of employees, and other economic, political and social control factors incident to primary, special and general elections shall be regulated and controlled by the provisions of this article and other applicable provisions of this chapter.;

And,

On pages eleven through fourteen, section one-a, by striking out all of subdivisions (14) and (15) and inserting in lieu thereof two new subdivisions, designated subdivisions (14) and (15), to read as follows:

~~(12)~~ (14) *Electioneering communication.* —

(A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or published in any newspaper, magazine or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, ~~or~~ the Legislature, circuit judge, family court judge, magistrate or any county office;

(ii) Is publicly disseminated within:

(I) Thirty days before a the primary election day at which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a the general or special election day at which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate. ~~Provided, That for purposes of the general election of 2008 the amendments to this article are effective October 1, 2008~~

(B) "Electioneering communication" does not include:

(i) A news story, commentary or editorial disseminated through the facilities of any broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical publication not owned or controlled by a political party, political committee or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) ~~Is part~~ of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing or listening area;

(ii) Activity by a candidate committee, party executive committee or caucus committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to section five of this article or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee or caucus committee or a political action committee required to be reported pursuant to subsection (b), section two of this article are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by by a membership organization in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate or his or her status as a candidate; or

(viii) A communication, such as a voter's guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history;

~~(13)~~ (15) "Expressly advocating" means any communication that:

(A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the Democratic nominee for ~~Supreme Court~~ House of Delegates", "cast your ballot for the Republican challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as pro-life or pro-choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject the incumbent";

(B) Communications of campaign slogans or individual words, that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One", "Jones '06", "Baker", etc.; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Following discussion,

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

On motion of Senator Miller, the following amendments to the bill (Com. Sub. for S. B. 539) were next reported by the Clerk and considered simultaneously:

On page nine, section one-a, line forty-nine, after the word "expenses" by inserting the words "paid by the volunteer";

On page fifteen, section one-a, lines one hundred ninety-eight and one hundred ninety-nine, by striking out the words "total contributions or political expenditures of more than the threshold amount during any calendar year and the major purpose of which is the making of";

On page fifteen, section one-a, line two hundred, by striking out the words "which are made";

On pages fifteen and sixteen, section one-a, lines two hundred one through two hundred twenty-three, by striking out all of paragraphs (A), (B), (C) and (D) and inserting in lieu thereof the following:

The following are types of political action committees:

(A) A corporate political action committee, ~~as that term is defined by subdivision (8) of this section;~~

(B) A political action committee that is a separate segregated fund of a membership organization, as that term is defined by subdivision (18) of this section, and that organization may

only accept contributions from its restricted group as outlined by the rules of the State Election Commission;

(C) An unaffiliated political action committee, ~~as that term is defined by subdivision (29) of this section;~~ and

(D) A caucus campaign committee.;

On page seventeen, section one-a, line two hundred thirty-seven, after the word “candidate,” by inserting the word “and”;

On page seventeen, section one-a, line two hundred thirty-nine, after the word “material” by changing the semicolon to a period and striking out the remainder of the subdivision;

On page thirty-six, section five-d, lines three and four, by changing the colon to a period and striking out the proviso;

On page forty-six, section nine, lines sixty-seven through seventy, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) A political action committee may not contribute to another political action committee or receive contributions from another political action committee: *Provided*, That a political action committee may receive contributions from its national affiliate, if any.;

On page forty-nine, section eleven, lines twenty-three through thirty-one, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) Any person who shall pay any owner, publisher, editor or employee or any newspaper or other periodical, to advocate or oppose editorially, any candidate for nomination or election, or any political party, or any measure to be submitted to the vote of the people or any owner, publisher, editor or employee, who shall solicit or accept such payment, is guilty of a misdemeanor and, on conviction thereof, shall be fined not more than \$10,000, or confined in jail for not more than one year or, in the discretion of the court, shall be subject to both such fine and imprisonment.;

And,

On page fifty-two, section twelve, lines sixty-nine and seventy, by striking out the words “other than another independent expenditure-only political action committee”.

Following discussion and a point of inquiry to the President,

At the request of Senator Trump, unanimous consent being granted, the bill (Com. Sub. for S. B. 539) was advanced to third reading with Senator Miller’s amendments pending and the right reserved to consider other amendments to the bill on that reading.

At the request of Senator Ferns, and by unanimous consent, the remarks by Senator Karnes relating to Senator Romano’s amendment to Committee Substitute for Senate Bill 539 were ordered printed in the Appendix to the Journal.

At the request of Senator Woelfel, unanimous consent being granted, the remarks by Senator Hall relating to Senator Miller's amendments to Committee Substitute for Senate Bill 539 were ordered printed in the Appendix to the Journal.

Senate Bill 566, Claims against state.

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

Com. Sub. for Senate Bill 576, Providing exception to waste for certain oil and gas development.

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

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

Senate Bill 578, Relating generally to copies of health care records furnished to patients.

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

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

Com. Sub. for Senate Bill 586, Changing fees for custom slaughters from annual to triennial.

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 601, Relating to requirements for making consumer loans.

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

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

Senate Bill 614, Relating to expansion of broadband service.

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

Senate Bill 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations.

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

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

Com. Sub. for Com. Sub. for Senate Bill 628, Relating to providing funding for Statewide Interoperable Radio Network.

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 630, Establishing Accessibility and Equity in Public Education Enhancement Act.

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

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

Com. Sub. for Senate Bill 631, Prosecuting violations of municipal building code.

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 634, Relating generally to certain agreements between DHHR and two largest state universities.

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

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

Com. Sub. for Senate Bill 647, Relating generally to additional county excise taxes on real property transfer.

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

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

Com. Sub. for Senate Bill 671, Relating to WV Anatomical Board.

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

Senate Bill 685, Creating a one-day special license for charitable events sell nonintoxicating beer.

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

Senate Bill 686, Exempting facilities governed by DHHR that provide direct patient care.

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

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

Senate Joint Resolution 10, Eliminating Office of Surveyor of Lands Amendment.

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

Eng. Com. Sub. for House Bill 2001, Relating to ethics and transparency in government.

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

At the request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2506, Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria.

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

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

Eng. Com. Sub. for House Bill 2868, Relating generally to Uniform Unclaimed Property Act.

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

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Ojeda, Woelfel and Romano.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until Monday, March 27, 2017, at 11 a.m.

SENATE CALENDAR

Monday, March 27, 2017
11:00 AM

THIRD READING

- | | |
|--|---|
| Eng. Com. Sub. for S. B. 69 - | Creating Sexual Assault Victims' Bill of Rights |
| Eng. Com. Sub. for S. B. 74 - | Allowing fire departments to charge fees for service calls (original similar to HB2638) |
| Eng. Com. Sub. for S. B. 167 - | Relating to DNA evidence |
| Eng. Com. Sub. for S. B. 210 - | Renaming Local Powers Act the County Local Powers Act |
| Eng. Com. Sub. for S. B. 316 - | Requiring individuals receiving unemployment compensation apply for and accept seasonal employment |
| Eng. Com. Sub. for S. B. 380 - | Creating 2-year pilot program to allow all-terrain or recreational vehicles in Cabwaylingo State Forest |
| Eng. Com. Sub. for S. B. 388 - | Relating to dangerous weapons |
| Eng. Com. Sub. for S. B. 412 - | Relating to WV Jobs Act reporting requirements |
| Com. Sub. for S. B. 437 - | Discontinuing WV Greyhound Breeding Development Fund - (With right to amend) |
| Eng. Com. Sub. for S. B. 453 - | Adding classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory (original similar to HB3065) |
| Eng. S. B. 493 - | Providing increase in compensation for conservation officers |
| Eng. S. B. 504 - | Defining "special aircraft property" |
| Com. Sub. for S. B. 539 - | Relating to regulation and control of financing elections - (Amends. pending) - (With right to amend) |
| Eng. S. B. 566 - | Claims against state |
| Com. Sub. for S. B. 576 - | Providing exception to waste for certain oil and gas development - (With right to amend) (original similar to HB3094) |
| Eng. Com. Sub. for S. B. 586 - | Changing fees for custom slaughters from annual to triennial |
| Eng. S. B. 614 - | Relating to expansion of broadband service |
| Eng. Com. Sub. for Com. Sub. for S. B. 628 - | Relating to providing funding for Statewide Interoperable Radio Network |
| Eng. Com. Sub. for S. B. 631 - | Prosecuting violations of municipal building code. |
| Eng. Com. Sub. for S. B. 671 - | Relating to WV Anatomical Board |

- Eng. S. B. 685 - Creating a one-day special license for charitable events sell nonintoxicating beer
- Eng. S. J. R. 10 - Eliminating Office of Surveyor of Lands Amendment
- Eng. Com. Sub. for H. B. 2001 - Relating to ethics and transparency in government - (Com. amend. and title amend. pending) - (With right to amend)

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 60 - Relating to eligibility and fraud requirements for public assistance (original similar to HB2741)
- Com. Sub. for S. B. 217 - Relating to disclaimers of warranties regarding used manufactured homes (original similar to HB2464, HB2578, SB216)
- Com. Sub. for Com. Sub. for S. B. 281 - Increasing number of limited video lottery machines allowed at retail location
- Com. Sub. for S. B. 376 - Relating generally to Sex Offender Registration Act (original similar to HB2915)
- S. B. 401 - Allowing county board of education base employment decisions on individual's qualifications
- S. B. 416 - Relating to Public-Private Transportation Facilities Act (original similar to HB2721)
- S. B. 417 - Removing financial limitations on number of design-build projects undertaken by DOH (original similar to HB2722)
- S. B. 421 - Increasing amount of authorized federal Grant Anticipation Notes for which DOH may apply (original similar to HB2878)
- Com. Sub. for S. B. 484 - Relating generally to taxation (original similar to HB2816)
- S. B. 578 - Relating generally to copies of health care records furnished to patients
- Com. Sub. for Com. Sub. for S. B. 601 - Relating to requirements for making consumer loans
- S. B. 621 - Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations
- Com. Sub. for S. B. 630 - Establishing Accessibility and Equity in Public Education Enhancement Act
- Com. Sub. for S. B. 634 - Relating generally to certain agreements between DHHR and two largest state universities
- Com. Sub. for S. B. 647 - Relating generally to additional county excise taxes on real property transfer (original similar to HB2461, SB433)

- S. B. 686 - Exempting facilities governed by DHHR that provide direct patient care
- Eng. Com. Sub. for H. B. 2506 - Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria
- Eng. H. B. 2774 - Defining special aircraft property
- Eng. Com. Sub. for H. B. 2868 - Relating generally to Uniform Unclaimed Property Act - (Com. amend. and title amend. pending)

FIRST READING

- Com. Sub. for Com. Sub. for S. B. 38 - Creating 5-year tax credit for new businesses locating on post-mine sites
- Com. Sub. for S. B. 57 - Continuing personal income tax adjustment for certain retirees
- Com. Sub. for S. B. 238 - Increasing tax credits allowed for rehabilitation of certified historic structures (original similar to HB2416, SB323)
- S. B. 294 - Relating to Community Sustainability Investment Pilot Program
- Com. Sub. for Com. Sub. for S. B. 333 - Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database
- Com. Sub. for S. B. 402 - Relating to covenants not to compete between physicians and hospitals
- Com. Sub. for S. B. 406 - Relating to generic drug products
- Com. Sub. for Com. Sub. for S. B. 501 - Relating to WV Economic Development Authority (original similar to HB3086)
- Com. Sub. for S. B. 515 - Relating to parole requirements for hearings and release
- Com. Sub. for Com. Sub. for S. B. 521 - Relating generally to Public Defender Services
- Com. Sub. for S. B. 534 - Relating to incentives for consolidating local governments
- Com. Sub. for S. B. 588 - Relating to reproduction, distribution and sale of tax maps
- Com. Sub. for S. B. 606 - Relating to minimum wage and maximum hours for employees
- Com. Sub. for S. B. 637 - Relating to private club operations requirements
- S. B. 667 - Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner
- S. B. 687 - Relating generally to coal mining, safety and environmental protection (original similar to HB 2506, HB 3029, SB 246, SB 582)

- S. B. 688 - Correcting technical error within Solid Waste Management Act.
- S. B. 689 - Relating to payment of small claims by DOH (original similar to HB 2608, HB 2977)
- S. B. 690 - Authorizing WV State Police impose and collect fees for agencies and entities using their facilities (original similar to HB 2149, HB 2316, HB 2507)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Monday, March 27, 2017

9:30 a.m.	Finance	(Room 451M)
9:30 a.m.	Judiciary	(Room 451M)
2 p.m.	Health & Human Resources	(Room 451M)

Tuesday, March 28, 2017

2 p.m.	Education	(Room 451M)
--------	-----------	-------------