

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2017  
FIFTY-FIFTH DAY

---

Charleston, West Virginia, Monday, April 3, 2017

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Dr. Melissa Pratt, Teays Valley Church of God, Scott Depot, West Virginia.

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

Pending the reading of the Journal of Saturday, April 1, 2017,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 5**, Disqualifying CDL for DUI conviction in certain cases.

A message from The Clerk of the House of Delegates announced the amendment by that body to the title of bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 151**, Authorizing Department of Administration promulgate legislative rules.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 151**—A Bill to amend and reenact §64-2-1 and §64-2-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of administrative rules by the Department of Administration; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to the Patient Injury Compensation Fund; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to mine subsidence insurance; and authorizing the Ethics Commission to promulgate a legislative rule relating to the use of office for private gain, including nepotism.

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

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

**Eng. Com. Sub. for Senate Bill 151**—A Bill to amend and reenact §64-2-1 and §64-2-2 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of legislative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to the Patient Injury Compensation Fund; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to mine subsidence insurance; and authorizing the Ethics Commission to promulgate a legislative rule relating to the use of office for private gain, including nepotism.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 151, as amended, was then 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, Karnes, 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: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 151) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, 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: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 151) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 206**, Expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing person by force.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section fourteen-a, line six, after the word “person:” by inserting the word “or”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 206, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 206) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 214**, Adopting Uniform Electronic Legal Material Act.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page four, section eight, line three, after the word “basis” by adding the words “at no cost”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 214, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 214) passed with its title.

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

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 222**, Relating to disqualification for unemployment benefits.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page four, section three, lines eighty and eighty-one, by striking out the words “and identified that he or she was reporting for and prepared to work”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 222, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 222 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—22.

The nays were: Beach, Facemire, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—12.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 222) passed with its title.

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

A message from The Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 225**, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 225**—A Bill to amend and reenact §48-27-402 of the Code of West Virginia, 1931, as amended, relating to including custody cases in those types of cases in which a magistrate may only enter certain types of relief if a family court has previously entered a temporary order.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 225, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 225) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 225) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 261**, Relating to increasing salary or wages of judgment debtor.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 261**—A Bill to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and wages of judgment debtors; removing the requirement of including the last four digits of the Social Security number of the judgment debtor in the suggestion execution in private employment; increasing the amount of salary or wages of persons from the state, a state agency or any political subdivision of the state from thirty times the federal minimum hourly wage then in effect to fifty times the federal minimum hourly wage then in effect; requiring judgment creditor to provide personal information about the judgment debtor including, to the extent available, the present address and date of birth of the judgment debtor in the suggestee execution; and making technical changes.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 261, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 419**, Creating special revenue fund sources for Division of Labor to meet statutory obligations.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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

That §21-3-7 of the Code of West Virginia, 1931, as amended be amended and reenacted; that §21-3C-11 of said code be amended and reenacted; that §21-3D-8 of said code be amended and reenacted; that §21-5-5c of said code be amended and reenacted; that §21-14-9 of said code be amended and reenacted; that §21-16-10 of said code be amended and reenacted; that §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code be amended and reenacted; and that §47-1A-10 and §47-1A-14 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 21. LABOR.**

### **ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.**

#### **§21-3-7. Regulation of operation of steam boilers.**

(a) Any person owning or operating a steam boiler carrying more than fifteen pounds pressure per square inch (except boilers on railroad locomotives subject to inspection under federal laws, portable boilers used for agricultural purposes, boilers on automobiles, boilers of steam fire engines brought into the state for temporary use in times of emergency for the purpose of checking conflagrations, boilers used in private residences which are used solely for residential purposes, any sectional boilers, small portable boilers commonly used in the oil and gas industry about their wells and tool houses, and boilers under the jurisdiction of the United States) in this state shall first obtain a permit to operate a steam boiler from the Commissioner of Labor, or from an inspector working under his or her jurisdiction.

(b) Applications for permits to operate a steam boiler must be accompanied by a sworn statement made by the owner or operator of such boiler, setting forth the condition of the boiler and its appurtenances at which time, if the facts disclosed by such statement meet the safety requirements established under this article, the Commissioner of Labor shall issue a temporary permit, which shall be valid until such boiler has been inspected by a boiler inspector authorized by the State Commissioner of Labor; thereupon, if the boiler meets the safety requirements established under this article, the Commissioner of Labor shall issue an annual permit to operate such steam boiler: *Provided*, That boilers which are insured by an insurance company operating in this state and which are inspected by such insurance company's boiler inspector shall not be subject to inspection by the state ~~department~~ Division of Labor, during any twelve ~~months'~~ months period during which an inspection is made by the insurance company's boiler inspector.

(c) The Commissioner of Labor or state boiler inspector shall have the authority to inspect steam boilers in this state. To carry out the provisions of this section, the Commissioner of Labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class. The Commissioner of Labor ~~shall be authorized to~~ may revoke any permit to operate a steam boiler if the rules prescribed by the Commissioner of Labor, or his or her authorized representative, are violated or if a condition shall prevail which is hazardous to the life and health of persons operating or employed at or around the boiler. Any person or corporation

who shall operate a steam boiler for which a permit is necessary under the provisions of this section, without first obtaining such permit to operate a steam boiler, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500. Every day a steam boiler requiring a permit to operate is operated without such ~~the~~ the permit shall ~~be considered~~ is a separate offense.

(d) The commissioner may charge such fee as he determines reasonable shall charge an annual fee to be established by legislative rule for the inspection of boilers by the department of labor boiler inspector of the commissioner's authorized boiler inspection agency division, for the processing of inspection reports from insurance companies, for the issuing of annual permits to operate boilers and for the commissioning of insurance company boiler inspectors. Such fees shall be established by a rule promulgated in accordance with the provisions of chapter twenty-nine-a of this code. The commissioner shall propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section. No fee shall may be charged for the inspection of boilers used on mobile equipment or vehicles used for occasional entertainment or display purposes.

(e) All moneys collected pursuant to this section shall be deposited in a special account in the State Treasury to be known as the "Steam Boiler Fund" to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

### **ARTICLE 3C. ELEVATOR SAFETY.**

#### **§21-3C-11. Disposition of fees; legislative rules.**

(a) The division shall propose rules for legislative approval in accordance with ~~the provisions of~~ article three, chapter twenty-nine-a of this code, for the implementation and enforcement of the provisions of this article, which shall provide:

(1) Standards, qualifications and procedures for submitting applications, taking examinations, and issuing and renewing licenses, certificates of competency and certificates of operation of the three licensure classifications set forth in section ~~ten (a)~~ ten-a of this article;

(2) For the renewal of a license, even if the licensee is unemployed or not working in the industry: *Provided*, That to engage or offer to engage in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator or related conveyance covered by this article, the licensee shall be a contractor, or be employed by a contractor licensed pursuant to ~~the provisions of section ten (a) six~~, article eleven, chapter twenty-one of the code;

(3) Qualifications and supervision requirements for elevator apprentices;

(4) Provisions for the granting of licenses without examination, to applicants who present satisfactory evidence of having the expertise required to perform work as defined in this article and who apply for licensure on or before July 1, 2010: *Provided*, That if a license issued under the authority of this subsection subsequently lapses, the applicant may, at the discretion of the commissioner, be subject to all licensure requirements, including the examination;



(5) Provisions for the granting of emergency licenses in the event of an emergency due to disaster, act of God or work stoppage when the number of persons in the state holding licenses issued pursuant to this article is insufficient to cope with the emergency;

(6) Provisions for the granting of temporary licenses in the event that there are no elevator mechanics available to engage in the work of an elevator mechanic as defined by this article;

(7) Continuing education requirements;

(8) Procedures for investigating complaints and revoking or suspending licenses, certificates of competency and certificates of operation, including appeal procedures;

(9) Fees for testing, issuance and renewal of licenses, certificates of competency and certificates of operation, and other costs necessary to administer the provisions of this article;

(10) Enforcement procedures; and

(11) Any other rules necessary to effectuate the purposes of this article.

(b) The rules proposed for promulgation pursuant to subsection (a) of this section shall establish the amount of any fee authorized pursuant to the provisions of this article: *Provided*, That in no event may the fees established for the issuance of certificates of operation exceed \$50 \$90.

~~(c) All fees collected pursuant to the provisions of this article shall be deposited in an appropriated special revenue account hereby created in the State Treasury known as the "Elevator Safety Fund" and expended for the implementation and enforcement of this article: *Provided*, That Amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The "Elevator Safety Fund" is hereby continued. All moneys collected pursuant to this article shall be deposited into the fund to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.~~

(d) The division may enter into agreements with counties and municipalities whereby such counties and municipalities be permitted to retain the inspection fees collected to support the enforcement activities at the local level.

~~(e) The commissioner and his or her deputy commissioner or any compliance officer of the division as authorized by the commissioner or his or her authorized representative may consult with engineering authorities and organizations concerned with standard safety codes, rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation and the qualifications which are adequate, reasonable and necessary for the elevator mechanic and inspector.~~

**ARTICLE 3D. CRANE OPERATOR CERTIFICATION ACT.****§21-3D-8. Crane operator certification fund; fees; disposition of funds.**

~~(a) There is hereby established a crane operator certification fund in the State Treasurer's office. All moneys from fees collected pursuant to this article shall be deposited in a special account in the State Treasury to be known as the "Crane Operator Certification Fund" to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.~~

(b) The commissioner may set reasonable application fees for the issuance or renewal of certificates and other services associated with crane operator certification.

~~(c)(1) The commissioner shall receive and account for all money that is derived pursuant to the provisions of this article. The commissioner shall pay all money collected into the crane operator certification fund that has been established pursuant to subsection (a), section eight of this article, with the exception of money received as fines. This money shall be used exclusively by the commissioner for purposes of administration and enforcement of his or her duties pursuant to this article.~~

~~(2) Expenditures from the crane operator certification fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code: *Provided*, That for the fiscal year ending June 30, 1999, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature~~

**ARTICLE 5. WAGE PAYMENT AND COLLECTION.****§21-5-5c. License required for psychophysiological detection of deception examiners; qualifications; promulgation of rules governing administration of psychophysiological detection of deception examinations.**

(a) No person, firm or corporation shall administer a psychophysiological detection of deception examination, lie detector or other similar examination utilizing mechanical or electronic measures of physiological reactions to evaluate truthfulness without holding a current valid license to do so as issued by the Commissioner of Labor. No examination shall be administered by a licensed corporation except by an officer or employee thereof who is also licensed.

(b) A person is qualified to receive a license as an examiner if he or she:

(1) Is at least twenty-one years of age;

(2) Is a citizen of the United States;

(3) Has not been convicted of a misdemeanor involving moral turpitude or a felony;

(4) Has not been released or discharged with other than honorable conditions from any of the armed services of the United States or that of any other nation;

(5) Has passed an examination conducted by the Commissioner of Labor or under his or her supervision, to determine his or her competency to obtain a license to practice as an examiner;

(6) Has satisfactorily completed not less than six months of internship training; and

(7) Has met any other qualifications of education or training established by the Commissioner of Labor in his or her sole discretion which qualifications are to be at least as stringent as those recommended by the American polygraph association.

(c) The Commissioner of Labor may designate and administer any test the commissioner considers appropriate to those persons applying for a license to administer psychophysiological detection of deception, lie detector or similar examination. The test shall be designed to ensure that the applicant is thoroughly familiar with the code of ethics of the American Polygraph Association and has been trained in accordance with association rules. The test must also include a rigorous examination of the applicant's knowledge of and familiarity with all aspects of operating psychophysiological detection of deception equipment and administering psychophysiological detection of deception examinations.

(d) The license to administer psychophysiological detection of deception, lie detector or similar examinations to any person shall be issued for a period of one year. It may be reissued from year to year. The licenses to be issued are:

(1) "Class I license" which authorizes an individual to administer psychophysiological detection of deception examinations for all purposes which are permissible under the provisions of this article and other applicable laws and rules.

(2) "Class II license" which authorizes an individual who is a full-time employee of a law-enforcement agency to administer psychophysiological detection of deception examinations to its employees or prospective employees only.

(e) The Commissioner of Labor shall charge ~~a fee~~ an annual fee to be established by legislative rule. ~~The fees shall be deposited in the General Revenue Fund of the state~~ All moneys collected pursuant to this section shall be deposited in a special account in the State Treasury to be known as the "Psychophysiological Examiners Fund" and administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature. In addition to any other information required, an application for a license shall include the applicant's social security number.

(f) The Commissioner of Labor shall propose rules for legislative approval in accordance with ~~the provisions of~~ article three, chapter twenty-nine-a of this code governing the administration of psychophysiological detection of deception, lie detector or similar examination to any person:

*Provided*, That all applicable rules in effect on the effective date of sections five-a, five-b, five-c and five-d of this article will remain in effect until amended, withdrawn, revoked, repealed or replaced. The legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he or she may be licensed to administer or interpret a psychophysiological detection of deception, lie detector or similar examination;

(2) Testing requirements including the designation of the test to be administered to persons applying for licensure;

(3) Standards of accuracy which shall be met by machines or other devices to be used in psychophysiological detection of deception, lie detector or similar examination;

(4) The conditions under which a psychophysiological detection of deception, lie detector or similar examination may be administered;

(5) Fees for licenses, renewals of licenses and other services provided by the commissioner;

(6) Any other qualifications or requirements, including continuing education, established by the commissioner for the issuance or renewal of licenses; and

(7) Any other purpose to carry out the requirements of sections five-a, five-b, five-c and five-d of this article.

#### **ARTICLE 14. SUPERVISION OF PLUMBING WORK.**

##### **§21-14-9. Disposition of fees.**

All fees paid pursuant to ~~the provisions of this article~~, shall be paid to the Commissioner of Labor and deposited in a special revenue account ~~with in the State Treasurer~~ State Treasury to be known as the "Plumbing Work Fund" to be administered by for the use of the Commissioner of Labor to enforce the provisions of this article. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

#### **ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.**

##### **§21-16-10. Disposition of fees.**

All fees paid pursuant to this article, shall be paid to the Commissioner of Labor and deposited in ~~"West Virginia Contractor Licensing Board Fund" for the use of the Commissioner of Labor in a manner consistent with section seventeen, article eleven, chapter twenty-one of this Code a~~ special account in the State Treasury to be known as the "HVAC Fund" to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen,

expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

## CHAPTER 47. REGULATION OF TRADE.

### ARTICLE 1. WEIGHTS AND MEASURES.

#### **§47-1-8. Requirements for the registration of service persons and service agencies for commercial weighing and measuring devices.**

(a) The uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices as adopted by the national conference of weights and measures National Conference of Weights and Measures and published in national institute of standards and technology handbook National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations" and supplements thereto or revisions thereof, shall apply to the registration of service persons and service agencies in the state, except insofar as modified or rejected by legislative rule.

(b) Beginning January 1, 2018, the commissioner shall charge an annual registration fee for service persons and service agencies to be established by legislative rule. The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section in 2017. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section.

#### **§47-1-20. State measurement laboratory and Weights and Measures Fund**

The commissioner shall operate and maintain a state measurement laboratory certified and approved by the national institute of standards and technology. The laboratory shall be used to both house and maintain the state primary standards and secondary standards as traceable to the national standards and to test or calibrate any secondary or working standards which are submitted for test as required by this article.

The commissioner shall promulgate rules, pursuant to chapter twenty-nine-a of this code to assess fees for weights and measures laboratory calibration and testing. All fees collected by the commissioner of labor under the provisions of this section article shall be deposited into a special revenue account in the State Treasury to be known as the "Weights and Measures Fund" to be administered by the Commissioner of Labor. The moneys in the fund shall be used by the commissioner solely for the enforcement of this article. The commissioner is hereby authorized to allocate moneys from the weights and measures fund to enforce the provisions of this article without legislative appropriation of moneys from the fund until June 30, 2006. Effective July 1, 2006, no moneys may be expended from the fund except by legislative appropriation. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

The commissioner shall provide such personnel as required to operate the laboratory in a manner which is consistent with the needs of this article. Personnel shall be trained and certified

to perform all such calibrations and tests as required by the ~~national institute of standards and technology~~ National Institute of Standards and Technology to maintain traceability of the state standards to national standards, and to properly maintain the laboratory facility as certified and traceable to the ~~national institute of standards and technology~~ National Institute of Standards and Technology.

**§47-1-21. Registration of business.**

(a) On or before October 1, 1994, every commercial business in the state which, in the course of conducting business, utilizes weights, measures and weighing and measuring devices covered by this article shall obtain a certificate of device registration for the commercial devices covered by this article, from the division. After October 1, 1994, it shall be unlawful in the state to conduct business subject to the provisions of this article without having first obtained a certificate of device registration from the division. Application for a certificate of device registration shall be made on a form provided by the division.

(b) A certificate of device registration is valid for twelve months from the date of issue. The certificate of device registration shall be posted within the place of business.

(c) Application for the renewal of a certificate of device registration shall be made on a form provided by the division at least thirty days prior to the renewal due date. The commissioner may deny the renewal of device registration for cause where the cause is the result of the conviction of the applicant, in a court of competent jurisdiction, for a violation of this article.

(d) Beginning January 1, 2018, the division shall charge an annual device registration fee, to be established by legislative rule. The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section in the 2017 regular legislative session. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section.

**§47-1-22. Civil penalties.**

(a) No person shall ~~shall~~ may:

- (1) Use or have in possession for use in commerce any incorrect weight or measure;
- (2) Sell or offer for sale for use in commerce any incorrect weight or measure;
- (3) Remove any tag, seal or mark from any weight or measure, without specific authorization from the Weights and Measures Section; or
- (4) Violate any provisions of this article or rules promulgated under it, not defined in subsection (a), section twenty-three of this article.

(b) Any person who violates subsection (a) of this section or any rule promulgated by the commissioner may be assessed a civil penalty by the commissioner, which penalty shall may not be more than \$1,000 for each violation. Each violation shall constitute a separate offense. In determining the amount of the penalty, the commissioner shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person

charged, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

(c) All civil penalties paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund created in section twenty of this article.

(d) A civil penalty may be assessed by the commissioner only after the commissioner shall have ~~has~~ given at least ten days' notice to the person. Notice shall be in writing, shall contain a short, plain statement of the matter asserted and shall designate a time and place for a hearing where the person may show cause why the civil penalty should not be imposed. Notice of hearing shall be sent by ~~registered~~ certified mail. The person may, at the time designated for the hearing, produce evidence on his or her behalf and be represented by ~~council~~ counsel.

(e) Any person aggrieved by a decision of the commissioner shall have ~~has~~ the right to a contested case hearing under the provisions of article five, chapter twenty-nine-a of this code, et seq.

## **ARTICLE 1A. REGULATION AND CONTROL OF BEDDING AND UPHOLSTERY BUSINESSES.**

### **§47-1A-10. Sterilization processes; annual permits. fees**

(1) Any sterilization process used in connection herewith shall be approved by the commissioner. Every person desiring to operate such sterilization process shall first obtain a numbered permit from the commissioner and shall not operate such process unless such permit is kept conspicuously posted in his or her establishment. ~~The fee for an original permit shall be \$25~~ Application for such permit shall be accompanied by the specifications for the sterilization process to be employed by the applicant, in such form as the commissioner shall require. Such permit shall expire one year from date of issue ~~and the fee for annual renewal of the sterilization permit shall be \$10.~~

~~(2) Every application for a sterilization permit to be held in a state other than West Virginia shall be approved only after personal inspection of the applicant's sterilizer or disinfecter by the commissioner or an authorized employee of the bedding division of the department. The expenses for such inspections out of the state shall be paid by the applicant~~

~~(3) (2) The commissioner may revoke or suspend any permit for violation of the provisions of this article. Upon notification of such revocation or suspension, the person to whom the permit was issued, or his or her successor or assignee, shall forthwith return such permit to the commissioner. For reissuing a revoked or expired permit, the fee shall be the same as for an original permit.~~

### **§47-1A-14. Annual registration and permit fees.**

(a) The annual registration fee for all manufacturers shipping or selling articles of bedding and for upholsterers or renovators, as defined in this article, in the State of West Virginia shall be \$50 \$90, payable on the first day of the fiscal year. Any manufacturer, upholsterer or renovator who submits an annual registration fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(b) The annual registration sterilizer permit fee for an upholsterer or renovator of articles of bedding, as defined in this article, in the State of West Virginia shall be \$10 ~~\$90~~, payable on the first day of the fiscal year. Any sterilizer who submits an annual permit fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(c) The fee for reissuing a revoked or expired registration or permit shall be \$90.

(d) All fees collected pursuant to this article shall be deposited in a special account in the State Treasury to be known as the "Bedding and Upholstery Fund" to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.;

And,

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

**Eng. Com. Sub. for Senate Bill 419**—A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11 of the said code; to amend and reenact §21-3D-8 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-9 of said code; to amend and reenact §21-16-10 of said code; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code; and to amend and reenact §47-1A-10 and §47-1A-14 of said code, all relating generally to the Division of Labor; establishing "Steam Boiler Fund"; establishing "HVAC Fund"; establishing "Plumbing Work Fund"; establishing "Psychophysiological Examiners Fund"; establishing "Bedding and Upholstery Fund"; requiring the commissioner to charge certain fees for steam boilers; authorizing the commissioner to promulgate legislative and emergency rules to administer and enforce fees on service persons and service agencies and businesses using weighing and measuring devices; directing civil penalty fees to the Weights and Measures Fund; removing requirement that the commissioner approve applications for sterilization permits held in states other than West Virginia only after personal inspection of such sterilizer or disinfectant; increasing maximum fees for the issuance of certificates of operation of elevators; establishing certain late fees; establishing certain reissuance fees for revoked or expired permits; increasing certain fees for sterilizers, manufacturers, shippers or sellers of bedding or upholstery, upholsters and renovators; and authorizing the commissioner to promulgate legislative rules.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 419) and requested the House of Delegates to recede therefrom.

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

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



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

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

**Eng. Com. Sub. for Senate Bill 445**, Amending definition of “abused child”.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 445**—A Bill to amend and reenact §49-1-201 of the Code of West Virginia, 1931, as amended, relating to amending the definition of “abused child” to include a child conceived as a result of sexual assault; and providing that no victim of sexual assault may be determined to be an abusive parent based upon being a victim of sexual assault.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 445, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 445) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 456**, Relating to standards for termination of parental rights in child abuse and neglect cases.

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

**Eng. Com. Sub. for Senate Bill 634**, Relating generally to certain agreements between DHHR and state’s medical schools.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 634**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating to exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or West Virginia School of Osteopathic Medicine from state purchasing requirements.

On motion of Senator Ferns the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 634, as amended by the House of Delegates, was then 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, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 634) passed with its House of Delegates amended title.

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

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 2447**, Renaming the Court of Claims the state Claims Commission.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

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

**Eng. Com. Sub. for House Bill 2447**—A Bill to repeal §14-2-6 and §14-2-18 of the Code of West Virginia, 1931, as amended; to repeal §14-2A-7 of said code; to amend and reenact §14-2-3, §14-2-4, §14-2-4a, §14-2-5, §14-2-7, §14-2-8, §14-2-9, §14-2-10, §14-2-11, §14-2-12, §14-2-13, §14-2-14, §14-2-15, §14-2-16, §14-2-17, §14-2-19, §14-2-20, §14-2-21, §14-2-22, §14-2-23, §14-2-24, §14-2-25, §14-2-26, §14-2-27 and §14-2-28 of said code; and to amend and reenact

§14-2A-5, §14-2A-6, §14-2A-9, §14-2A-10, §14-2A-11, §14-2A-12, §14-2A-13, §14-2A-14, §14-2A-15, §14-2A-16, §14-2A-17, §14-2A-18, §14-2A-19, §14-2A-19a, §14-2A-19b, §14-2A-20, §14-2A-21, §14-2A-25, §14-2A-26 and §14-2A-28 of said code, all relating to certain claims against the state generally; renaming the West Virginia Court of Claims the West Virginia Legislative Claims Commission; renaming judges commissioners; clarifying the length of the existing terms for the current commissioners; clarifying that commissioners are not judicial officers; modifying definitions; providing explicit power of removal of commissioners to the President of the Senate and the Speaker of the House of Delegates; providing authority to the President of the Senate and the Speaker of the House of Delegates for the hiring of a clerk, chief deputy clerk, deputy clerks, claim investigators, and support staff and setting salaries for said positions; authorizing the President of the Senate and Speaker of the House to permit commissioners serve more than one hundred twenty days in any fiscal year; increasing the monetary limit for agency agreed to claims from \$1,000 to \$3,000; and updating and modifying and clarifying procedures and practices of the commission.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendment to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 2447) and requested the House of Delegates to recede therefrom.

Thereafter, on motion of Senator Ferns, the Senate requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Maynard and Jeffries.

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

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**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.

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 3006**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating to exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or West Virginia School of Osteopathic Medicine from state purchasing requirements.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 2503**, Relating to the rulemaking authority for Board of Osteopathic Medicine.

And reports the same back with the recommendation that it 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

**Eng. House Bill 2628**, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine.

And has amended same.

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

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

**Eng. Com. Sub. for House Bill 2792**, Requiring the Library Commission to survey the libraries of the state.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2797**, Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 2839**, Updating the procedures for legislative review of departments and licensing boards.

And reports the same back with the recommendation that it 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

**Eng. Com. Sub. for House Bill 2941**, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services.

And reports the same back with the recommendation that it 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

**Eng. House Bill 3053**, Relating to motor vehicle lighting.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**Senate Concurrent Resolution 53**—Requesting the Division of Highways to name bridge number 30-3/5-19.82 (30A268), (37.93753, -82.27931), locally known as Lowney Singing Bridge, carrying County Route 3/5 over West Fork of Twelvepole Creek in Mingo County, the “U. S. Army SGT Benny Fleming Memorial Bridge”.

Whereas, Sergeant Fleming was born on June 9, 1948, to Goodlow and Lora Evans Fleming of Wilsondale, and passed away on August 30, 2013; and

Whereas, Sergeant Fleming was the ninth child out of eleven. He had three brothers: John P. Fleming, Ray Fleming and Sherman Franklin Fleming, all of Wilsondale; and seven sisters: Betty June Shrader of Lineboro, Maryland, Faye Tatro of Tampa, Florida, Debbie Buskell of Baltimore, Maryland, Mary Davis of Jacksonville, Florida, Judy Maynard of Avon, Ohio; and Blaze Starr and Berta Gail Browning of Wilsondale; and

Whereas, Sergeant Fleming was a lifelong resident of Mingo County and it was there that he raised a family and made a living as a coal miner. Throughout his life, he overcame many obstacles, all while maintaining a great attitude. This made him the man he would eventually become; and

Whereas, As a young boy, Sergeant Fleming spent his days exploring the very countryside he would eventually call home. He attended Lowney Grade School near his family home, and graduated from Lenore High School in 1966. That same year, he enlisted in the US Army. In the five years he served, he was promoted to the level of Army Sergeant E-5, served in Vietnam, and eventually received an honorable discharge. After returning home, he worked for the West Virginia Department of Highways; and

Whereas, Sergeant Fleming began working underground in the coal mines in the early to mid-1970s, when the danger of working underground was at its highest. He worked for Dehue Mines in Logan until they closed, and then went to work at Rawl Sales Rocky Hollow for nearly fifteen years until he suddenly became sick while on vacation with his family. He was diagnosed with transverse myelitis. After spending months in the hospital, and at a rehabilitation center, he was left paralyzed from the waist down, and confined to a wheelchair; and

Whereas, When faced with an obstacle such as this, most people would have given up, but not Sergeant Fleming. He had to learn how to use his hands again, and how to sit up again. He learned how to cook, clean, do laundry, and be self-sufficient. Eventually, he would mow his own grass, and the grass of his sister, just to keep busy. He also became active in modifying facilities to become handicapped accessible. It was very important to him to be able to get in and out of places without having to ask for assistance; and

Whereas, Sergeant Fleming had two daughters, Mabelle and Teresa. He loved them dearly. They married and had children of their own. Mabelle had his first grandchild, Jarrid, in 1991. This gave Sergeant Fleming something to get stronger for, and something to look forward to. Jarrid was his whole world. He would spend weekends with Sergeant Fleming, and he would feed him, bathe him, and change his diaper, all while being confined to a wheelchair; and

Whereas, Five years later, Mabelle had Sergeant Fleming's second grandchild, Seann Cameron. He and Sergeant Fleming spent their time fishing, riding four wheelers, and Sergeant Fleming would point out deer and bear tracks to his grandson. Some weekends, Sergeant Fleming would keep both boys. That was when he was at his happiest; and

Whereas, In August of 1998, Teresa had Sergeant Fleming's third grandchild, a boy named Carson. Just as he did with the grandsons before him, Sergeant Fleming loved to spend time with him, watching him play basketball and talk about trains. He too would spend the night with Sergeant Fleming, and he would see to it that he was well taken care of; and

Whereas, Because of his grandkids, including a fourth, Mackenzie Taylor, the last years of Sergeant Fleming's life were his happiest. In 2002, he was the official scorekeeper for his grandson Jarrid's baseball team, and never missed a game. He traveled to the away games, as well as the home games, and treated Jarrid's teammates as if they were his own. He would buy the kids drinks, hotdogs, and candy at the games, and they loved him as if he were their own grandpa. He also spent time with his companion and life partner, Cathy Perry. They were at their happiest when spending time outdoors and sharing memories; and

Whereas, In his last few years, Sergeant Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney". It tells the story of when he was young, and going to Lowney Grade School near his childhood home. He goes into great detail and tells everything he can remember of growing up in that area of Mingo County. He typed the story himself, and surprised his children and grandchildren each with a copy. The seven-page story is Sergeant Fleming's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last twenty-five years of his life, Sergeant Fleming overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

Whereas, Finally, in 2001, Sergeant Fleming had his first granddaughter. Teresa gave birth to Mackenzie Grace in July of that year. He loved having a little girl, but she was just as rough and tough as the boys. They would all play baseball in the front yard, ride four-wheelers, and go berry picking; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of Sergeant Fleming. With his short story titled "Growing Up Lowney," and the bridge known as the Lowney Singing Bridge, the irony is clear. Naming this bridge for him would be a testament to the strong, loving family man that was taken from us way too soon; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 30-3/5-19.82 (30A268) (37.93753, -82.27931), locally known as Lowney Singing Bridge, carrying County Route 3/5 over West Fork of Twelvepole Creek in Mingo County, the "U. S. Army SGT Benny Fleming Memorial Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Benny Fleming Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

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

**Senate Concurrent Resolution 52**, US Army PFC Glenn S. Perdue, US Army Tec 5 Charley H. Perdue and US Army Air Corps SGT Carl Perdue Memorial Road.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2180**, Authorizing the issuance of special “In God We Trust” motor vehicle registration plates.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2180) passed.

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

**Eng. Com. Sub. for House Bill 2180**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to the issuance of “In God We Trust” and “Friends of Coal” motor vehicle registration plates.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 304**, Appropriating expiring funds from State Fund, General Revenue to DHHR.

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 476**, Expiring funds from Revenue Shortfall Reserve Fund to General Revenue.

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

**Senate Bill 694**, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration.

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

**Eng. House Bill 2188**, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth.

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

**Eng. Com. Sub. for House Bill 2364**, Prohibiting electioneering within or near early voting locations during early voting periods.

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

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

### **§3-1-37. Restrictions on presence and conduct at polls.**

(a) Except as otherwise provided in this section, no person, other than the election officers and voters going to the election room to vote and returning therefrom, may be or remain within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place while the polls are open. This subsection does not apply to persons who reside or conduct business within such distance of the entrance to the building housing the polling place, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within ~~three~~ one hundred feet of such entrance.

(b) A person who is delivering a voter to a polling place by motor vehicle may drive such vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the location is within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require assistance by reason of blindness, disability or advanced age may remain within ~~three~~ one

hundred feet of the entrance until such time as the voter is to be transported from the polling place.

(c) The election commissions shall limit the number of voters in the election room so as to preserve order. No person may approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his or her ballot, and no person, other than election officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted to be within five feet of any ballot box, except by authority of the board of election commissioners, and then only for the purpose of keeping order and enforcing the law.

(d) Not more than one person may be permitted to occupy any booth or compartment at one time. No person may remain in or occupy a booth or compartment longer than may be necessary to prepare his or her ballot, and in no event longer than five minutes, except that any person who claims a disability pursuant to section thirty-four of this article shall have additional time up to ten additional minutes to prepare his or her ballot. No voter, or person offering to vote, may hold any conversation or communication with any person other than the poll clerks or commissioners of election, while in the election room.

(e) The provisions of this section do not apply to persons rendering assistance to blind voters as provided in section thirty-four of this article or to any child fourteen years of age or younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting shall be determined by the election commissioners.

## **ARTICLE 9. OFFENSES AND PENALTIES.**

### **§3-9-9. Electioneering defined; Other unlawful acts at polling places; exceptions; penalties.**

(a) As used in this section, "electioneering" means the displaying of signs or other campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question. "Electioneering" does not include exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of one hundred feet of the entrance to a polling place while such person is voting or transporting any voter to the polls.

(b) No officer of election may disclose to any person the name of any candidate for whom a voter has voted. No officer of election may do any electioneering on election day.

(c) No person may do any electioneering on election day within any polling place, or within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within one hundred feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection shall prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and ordinances.

(d) No person may apply for or receive any ballot in any polling place, other than that in which ~~he~~ the person is entitled to vote, nor may any person examine a ballot which any voter has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement, directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of election, may receive from any voter a ballot prepared by him or her for voting. No voter may receive a ballot from any person other than one of the poll clerks; nor may any person other than a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No voter may deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him or her.

(e) Whoever violates any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both fined and confined.

The bill (Eng. Com. Sub. for H. B. 2364), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2404**, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims.

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

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

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

## **CHAPTER 36. ESTATES AND PROPERTY.**

### **ARTICLE 1. CREATION OF ESTATES GENERALLY.**

#### **§36-1-20. WHEN SURVIVORSHIP PRESERVED.**

(a) ~~The preceding section shall~~ Section nineteen of this article does not apply to any estate which joint tenants have as executors or trustees, nor to an estate conveyed or devised to persons in their own right, when it manifestly appears from the tenor of the instrument that it was intended that the part of the one dying should then belong to the others. Neither shall it affect the mode of proceeding on any joint judgment or decree in favor of, or on any contract with, two or more, one of whom dies.

(b) When the instrument of conveyance or ownership in any estate, whether real estate or tangible or intangible personal property, links multiple owners together with the disjunctive "or," such ownership shall be held as joint tenants with the right of survivorship, unless expressly stated otherwise.

(c) ~~No~~ A person convicted of violating the provisions of section one or three, article two, chapter sixty-one of this code as a principal, aider and abettor or accessory before the fact, or convicted of a similar provision of law of another state or the United States, or who has been convicted of an offense causing the death of an incapacitated adult set forth in section twenty-nine-a, article two, chapter sixty-one of this code, as a principal, aider and abettor or accessory

before the fact, or convicted of a similar provision of law of another state or the United States, may not take or acquire any real or personal property by survivorship pursuant to this section when the victim of the criminal offense was a joint holder of title to the property. The property to which the convicted person ~~so convicted~~ would otherwise have been entitled shall go to the person or persons who would have taken the same property if the convicted person ~~so convicted~~ had predeceased the victim.

(d) A person who has been convicted of an offense of abuse or neglect of an incapacitated adult pursuant to section twenty-nine, article two, chapter sixty-one of this code, a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult pursuant to section twenty-nine-b of that article, or convicted of a similar provision of law of another state or the United States, may not take or acquire any real or personal property by survivorship pursuant to this section, when the victim of the criminal offense is a joint holder of the title to the property. The money or property which the person would otherwise have received shall go to the person or persons who would have taken the money or property if the convicted person had predeceased the victim. This subsection does not apply if, after the conviction, the victim of the offense, if competent, executes a recordable instrument, sworn to, notarized and witnessed by two persons that would be competent as witnesses to a will of the victim, expresses a specific intent to allow the person so convicted to retain his or her tenancy in the property with rights of survivorship.

## CHAPTER 42. DESCENT AND DISTRIBUTION.

### ARTICLE 4. GENERAL PROVISIONS.

#### §42-4-2. Homicide bars acquisition of estate or insurance money.

~~No~~ (a) A person who has been convicted of feloniously killing another, or of conspiracy in the killing of another, shall may not take or acquire any money or property, real or personal, or interest therein in the money or property, from the one killed or conspired against, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise; but the money or the property to which the convicted person ~~so convicted~~ would otherwise have been entitled shall go to the person or persons who would have taken the same the money or property if the convicted person ~~so convicted~~ had been dead at the date of the death of the one killed or conspired against, unless by some rule of law or equity the money or the property would pass to some other person or persons.

(b) A person who has been convicted of an offense causing the death of an incapacitated adult set forth in section twenty-nine-a, article two, chapter sixty-one of this code, or convicted of a similar provision of law of another state or the United States, may not take or acquire any money or property, real or personal, or interest in the money or property, from the victim decedent, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise; but the money or the property to which the convicted person would otherwise have been entitled shall go to the person or persons who would have taken the money or property if the convicted person had been dead at the date of the death of the decedent, unless by law the money or the property would pass to some other person or persons.

(c) A person who has been convicted of an offense of abuse or neglect of an incapacitated adult pursuant to section twenty-nine, article two, chapter sixty-one of this code, a felony offense of financial exploitation of an elderly person, protected person or incapacitated adult pursuant to section twenty-nine-b, article two, chapter sixty-one of this code, or convicted of a similar

provision of law of another state or the United States, may not take or acquire any money or property, real or personal, or any interest in the money or property, from the victim of the offense, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise. The money or the property to which the convicted person would otherwise have been entitled shall go to the person or persons who would have taken the money or property if the convicted person had been dead at the date of the death of the victim, unless by law the money or the property would pass to some other person or persons. This subsection does not apply if, after the conviction, the victim of the offense, if competent, executes a recordable instrument, sworn to, notarized and witnessed by two persons that would be competent witnesses to a will of the victim, expresses a specific intent to allow the convicted person to inherit or otherwise receive the money, estate or other property of the victim of the offense.

The bill (Eng. Com. Sub. for H. B. 2404), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2479**, Uniform Deployed Parents Custody and Visitation Act.

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

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

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

That §48-1-233.3, §48-1-233.4 and §48-9-404 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106, §48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31-204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §48-31-307, §48-31-308, §48-31-309, §48-31-310, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all to read as follows:

## **ARTICLE 31. UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT.**

### **§48-31-101. Short title.**

This article may be cited as the Uniform Deployed Parents Custody and Visitation Act.

### **§48-31-102. Definitions.**

In this article:

(1) "Adult" means an individual who has attained eighteen years of age or an emancipated minor.

(2) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.

(3) "Child" means:

(A) An unemancipated individual who has not attained eighteen years of age; or

(B) An adult son or daughter by birth or adoption, or under law of this state other than this article, who is the subject of a court order concerning custodial responsibility.

(4) "Close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

(5) "Court" means a tribunal, authorized under law of this state other than this article to make, enforce, or modify a decision regarding custodial responsibility.

(6) "Custodial responsibility" has the same meaning as in section two hundred nineteen, article one of this chapter.

(7) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(8) "Deploying parent" means a service member, who is deployed or has been notified of impending deployment and is:

(A) A parent of a child under law of this state other than this article; or

(B) An individual who has custodial responsibility for a child under law of this state other than this article;

(9) "Deployment" means the movement or mobilization of a service member for more than ninety days but less than eighteen months pursuant to uniformed service orders that:

(A) Are designated as unaccompanied;

(B) Do not authorize dependent travel; or

(C) Otherwise do not permit the movement of family members to the location to which the service member is deployed.

(10) "Family member" means a sibling, aunt, uncle, cousin, step-parent or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this article.

(11) "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(12) "Nonparent" means an individual other than a deploying parent or other parent.

(13) "Other parent" means an individual who, in common with a deploying parent, is:

(A) A parent of a child under law of this state other than this article; or

(B) An individual who has custodial responsibility for a child under law of this state other than this article.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Return from deployment" means the conclusion of a service member's deployment as specified in uniformed service orders.

(16) "Service member" means a member of a uniformed service.

(17) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound or process.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Uniformed service" means:

(A) Active and reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;

(B) The United States Merchant Marine;

(C) The commissioned corps of the United States Public Health Service;

(D) The commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(E) The National Guard of a state.

#### **§48-31-103. Remedies for noncompliance.**

In addition to other remedies under law of this state other than this article, if a court finds that a party to a proceeding under this article has acted in bad faith or intentionally failed to comply with this article or a court order issued under this article, the court may assess reasonable attorney's fees and costs against the party and order other appropriate relief.

#### **§48-31-104. Jurisdiction.**

(a) A court may issue an order regarding custodial responsibility under this article only if the court has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

(b) If a court has issued a temporary order regarding custodial responsibility pursuant to this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act during the deployment.

(c) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to the provisions of this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.

(d) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed because of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.

(e) This section does not prevent a court from exercising temporary emergency jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

**§48-31-105. Notification required of deploying parent.**

(a) Except as otherwise provided in subsection (c) or (d) of this section, a deploying parent shall notify in a record the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(b) Except as otherwise provided in subsection (c) or (d) of this section, each parent shall provide in a record the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under subsection (a) of this section.

(c) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under subsection (a) of this section, or notification of a plan for custodial responsibility during deployment under subsection (b) of this section, may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(d) Notification in a record under subsection (a) or (b) of this section is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

**§48-31-106. Duty to notify of change of address.**

(a) Except as otherwise provided in subsection (b) of this section, an individual to whom custodial responsibility has been granted during deployment pursuant to the provisions of this article shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect.

(b) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under subsection (a) of this section may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.



**§48-31-107. General consideration in custody proceeding of parent's military service.**

In a proceeding for custodial responsibility of a child of a service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

**§48-31-201. Form of agreement addressing custodial responsibility during deployment.**

(a) The parents of a child may enter into a temporary agreement under this article granting custodial responsibility during deployment.

(b) An agreement under subsection (a) of this section shall be:

(1) In writing; and

(2) Signed by both parents and any nonparent to whom custodial responsibility is granted.

(c) Subject to subsection (d) of this section, an agreement under subsection (a), if feasible, shall:

(1) Identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(2) Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(3) Specify any decision-making authority that accompanies a grant of caretaking authority;

(4) Specify any grant of limited contact to a nonparent;

(5) If under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(6) Specify the frequency, duration and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(7) Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(8) Acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(9) Provide that the agreement will terminate according to the procedures specified in this article after the deploying parent returns from deployment; and

(10) If the agreement must be filed pursuant to section two hundred five of this article, specify which parent is required to file the agreement.

(d) The omission of any of the items specified in subsection (c) of this section does not invalidate an agreement under this section.

**§48-31-202. Nature of authority created by agreement.**

(a) An agreement under this article is temporary and terminates pursuant to the provisions of this article after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section two hundred three of this article. The agreement does not create an independent, continuing right to caretaking authority, decision-making authority or limited contact in an individual to whom custodial responsibility is given.

(b) A nonparent who has caretaking authority, decision-making authority or limited contact by an agreement under this article has standing to enforce the agreement until it has been terminated by court order, by modification under section two hundred three of this article, or under other provisions of this article.

**§48-31-203. Modification of agreement.**

(a) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this article.

(b) If an agreement is modified under subsection (a) of this section before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(c) If an agreement is modified under subsection (a) of this section during deployment of a deploying parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

**§48-31-204. Power of attorney.**

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under law of this state other than this article, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

**§48-31-205. Filing agreement or power of attorney with court.**

An agreement or power of attorney under this article shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.

**§48-31-301. Proceeding for temporary custody order.**

(a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited

by the Service Members Civil Relief Act, 50 U.S.C. §3931 and §3932. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(b) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section one hundred four of this article or, if there is no pending proceeding in a court with jurisdiction under section one hundred four of this article, in a new action for granting custodial responsibility during deployment.

**§48-31-302. Expedited hearing.**

If a motion to grant custodial responsibility is filed under subsection (b) of section three hundred one of this article before a deploying parent deploys, the court shall conduct an expedited hearing.

**§48-31-303. Testimony by electronic means.**

In a proceeding under this article, a party or witness who is not reasonably available to appear personally may appear, provide testimony and present evidence by electronic means unless the court finds good cause to require a personal appearance.

**§48-31-304. Effect of prior judicial order or agreement.**

In a proceeding for a grant of custodial responsibility pursuant to this article, the following rules apply:

(1) A prior judicial order, designating custodial responsibility if there is deployment, is binding on the court unless the circumstances meet the requirements of law of this state other than this article for modifying a judicial order regarding custodial responsibility.

(2) The court shall enforce a prior written agreement between the parents for designating custodial responsibility if there is deployment, including an agreement executed under section two hundred one of this article, unless the court finds that the agreement is contrary to the best interest of the child.

**§48-31-305. Grant of caretaking or decision-making authority to nonparent.**

(a) On motion of a deploying parent and in accordance with law of this state other than this article, if it is in the best interest of the child, a court may grant caretaking authority to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship.

(b) Unless a grant of caretaking authority to a nonparent under subsection (a) of this section is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(1) The amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(2) In the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities and travel.

**§48-31-306. Grant of limited contact.**

On motion of a deploying parent, and in accordance with law of this state other than this article, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

**§48-31-307. Nature of authority created by temporary custody order.**

(a) A grant of authority under this article is temporary and terminates under the provisions of this article after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority or limited contact in an individual to whom it is granted.

(b) A nonparent granted caretaking authority, decision-making authority or limited contact under this article may enforce the grant until it is terminated by court order or under other provisions of this article.

**§48-31-308. Content of temporary custody order.**

(a) An order granting custodial responsibility under this article shall:

(1) Designate the order as temporary; and

(2) Identify to the extent feasible the destination, duration and conditions of the deployment.

(b) If applicable, an order for custodial responsibility under this article shall:

(1) Specify the allocation of caretaking authority, decision-making authority or limited contact among the deploying parent, the other parent, and any nonparent;

(2) If the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(3) Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;

(4) Provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;

(5) Provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and

(6) Provide that the order will terminate pursuant to the provisions of this article after the deploying parent returns from deployment.

**§48-31-309. Order for child support.**

If a court has issued an order granting caretaking authority under this article, or an agreement granting caretaking authority has been executed under section two hundred one of this article, the court may enter a temporary order for child support consistent with law of this state other than this article if the court has jurisdiction under the Uniform Interstate Family Support Act.

**§48-31-310. Modifying or terminating grant of custodial responsibility to nonparent.**

(a) Except for an order under section three hundred four of this article, except as otherwise provided in subsection (b) of this section, and consistent with the Service Members Civil Relief Act, 50 U.S.C. §3931 and §3932, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this article and it is in the best interest of the child. A modification is temporary and terminates pursuant to the provisions of this article after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(b) On motion of a deploying parent, the court shall terminate a grant of limited contact.

**§48-31-401. Procedure for terminating temporary grant of custodial responsibility established by agreement.**

(a) At any time after return from deployment, a temporary agreement granting custodial responsibility under section two hundred one of this article may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) A temporary agreement under section two hundred one of this article granting custodial responsibility terminates:

(1) If an agreement to terminate under subsection (a) of this section specifies a date for termination, on that date; or

(2) If the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(c) In the absence of an agreement under subsection (a) of this section to terminate, a temporary agreement granting custodial responsibility terminates under this article sixty days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(d) If a temporary agreement granting custodial responsibility was filed with a court pursuant to section two hundred five of this article, an agreement to terminate the temporary agreement also shall be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

**§48-31-402. Consent procedure for terminating temporary grant of custodial responsibility established by court order.**

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility. After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

**§48-31-403. Visitation before termination of temporary grant of custodial responsibility.**

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under this article is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

**§48-31-404. Termination by operation of law of temporary grant of custodial responsibility established by court order.**

(a) If an agreement between the parties to terminate a temporary order for custodial responsibility under this article has not been filed, the order terminates sixty days after the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(b) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by law of this state other than this article; *Provided*, That no agreement of the parties made pursuant to the provisions of this article shall be the basis for a modification of the parents' permanent parenting plan made pursuant to section four hundred two, article nine of this chapter.

**§48-31-501. Uniformity of application and construction.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§48-31-502. Relation to Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 *et seq.*, but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. Section 7003(b).

**§48-31-503. Savings clause.**

This article does not affect the validity of a temporary court order concerning custodial responsibility during deployment which was entered before the effective date of this article.

The bill (Eng. Com. Sub. for H. B. 2479), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2509**, Relating to the practice of telemedicine.

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

At the request of Senator Takubo, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

**ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.****§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.**

(a) *Definitions* – For the purposes of this section:

(1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. “Chronic nonmalignant pain” does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) “Physician” means a person licensed by the West Virginia Board of Medicine to practice allopathic medicine in West Virginia.

(3) “Store and forward telemedicine” means the asynchronous computer-based communication of medical data or images from an originating location to a physician or podiatrist at another site for the purpose of diagnostic or therapeutic assistance.

(4) “Telemedicine” means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening health care provider.

(5) “Telemedicine technologies” means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician or podiatrist and a patient.

(b) *Licensure* –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

(B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

(c) *Physician-patient or Podiatrist-patient relationship through telemedicine encounter* –

(1) A physician-patient or podiatrist-patient relationship may not be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;



- (3) Provide the patient with the physical location and contact information of the physician;
- (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;
- (5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;
- (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;
- (7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~
- (8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and
- (9) The requirements of subdivisions (1) through (8), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine or podiatry provided via telemedicine technologies, including the establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and

Adolescent Psychiatry or the American Academy of Pediatrics: *Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.*

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term “abortion” has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions –*

This article does not prohibit the use of audio-only or text-based communications by a physician or podiatrist who is:

(1) Responding to a call for patients with whom a physician-patient or podiatrist-patient relationship has been established through an in-person encounter by the physician or podiatrist;

(2) Providing cross coverage for a physician or podiatrist who has established a physician-patient or podiatrist-patient relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking –*

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine and podiatry in this state.

(j) *Preserving traditional physician-patient or podiatrist-patient relationship –*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient or podiatrist-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

## **ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.**

### **§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.**

(a) *Definitions.* – For the purposes of this section:

(1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. “Chronic nonmalignant pain” does not include pain associated with a terminal condition or illness or with a progressive

disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) “Physician” means a person licensed by the West Virginia Board of Osteopathic Medicine to practice osteopathic medicine in West Virginia.

(3) “Store and forward telemedicine” means the asynchronous computer-based communication of medical data or images from an originating location to a physician at another site for the purpose of diagnostic or therapeutic assistance.

(4) “Telemedicine” means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication or other means of interaction between a physician in one location and a patient in another location, with or without an intervening health care provider.

(5) “Telemedicine technologies” means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician and a patient.

(b) *Licensure –*

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician who is licensed to practice medicine in this state, provided that the physician requesting the opinion retains authority and responsibility for the patient’s care; and

(B) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.

(c) *Physician-patient relationship through telemedicine encounter.*

(1) A physician-patient relationship may *not* be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient relationship is not present prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician using telemedicine technologies to practice medicine shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient relationship which conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and

(9) The requirements of subdivisions (1) through (7), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine provided via telemedicine technologies, including the establishment of a physician-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician and the patient, consistent with the laws and legislative

rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine provided through telemedicine technologies. A physician solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substances Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term "abortion" has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions* –

This section does not prohibit the use of audio-only or text-based communications by a physician who is:

(1) Responding to a call for patients with whom a physician-patient relationship has been established through an in-person encounter by the physician;

(2) Providing cross coverage for a physician who has established a physician-patient or relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking* –

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine in this state.

(j) *Preservation of the traditional physician-patient relationship.*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient relationship, nor is it meant or intended to change in any way the

personal character of the physician-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

The bill (Eng. Com. Sub. for H. B. 2509), as amended, was then ordered to third reading.

**Eng. House Bill 2518**, Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

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

**Eng. Com. Sub. for House Bill 2519**, Medicaid program compact.

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

**Eng. House Bill 2522**, Nurse licensure compact.

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

**Eng. Com. Sub. for House Bill 2526**, Classifying additional drugs to Schedules I, II, IV and V of controlled substances.

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

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

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

## **ARTICLE 2. STANDARDS AND SCHEDULES.**

### **§60A-2-201. Authority of state Board of Pharmacy; recommendations to Legislature.**

(a) The state Board of Pharmacy shall administer the provisions of this chapter. It shall also, on the first day of each regular legislative session, recommend to the Legislature which substances should be added to or deleted from the schedules of controlled substances contained in this article or reschedule therein. The state Board of Pharmacy shall also have the authority between regular legislative sessions, on an emergency basis, to add to or delete from the schedules of controlled substances contained in this article or reschedule such substances based upon the recommendations and approval of the federal food, drug and cosmetic agency, and shall report such actions on the first day of the regular legislative session immediately following said actions.

In making any such recommendation regarding a substance, the state Board of Pharmacy shall consider the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration and significance of abuse;

(6) The potential of the substance to produce psychic or physiological dependence liability;  
and

(7) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the state Board of Pharmacy shall make findings with respect to the substance under consideration. If it finds that any substance not already controlled under any schedule has a potential for abuse, it shall recommend to the Legislature that the substance be added to the appropriate schedule. If it finds that any substance already controlled under any schedule should be rescheduled or deleted, it shall so recommend to the Legislature.

(c) If the state Board of Pharmacy designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal laws and notice thereof is given to the state Board of Pharmacy, the board shall recommend similar control of such substance to the Legislature, specifically stating that such recommendation is based on federal action and the reasons why the federal government deemed such action necessary and proper.

(e) The authority vested in the board by subsection (a) of this section shall not extend to distilled spirits, wine, malt beverages or tobacco as those terms are defined or used in other chapters of this code nor to any nonnarcotic substance if such substance may under the "Federal Food, Drug and Cosmetic Act" and the law of this state lawfully be sold over the counter without a prescription.

(f) Notwithstanding any provision of this chapter to the contrary, the sale, wholesale, distribution or prescribing of a cannabidiol in a product approved by the Food and Drug Administration is permitted and shall be placed on the schedule as provided for by the Drug Enforcement Administration.

#### **§60A-2-204. Schedule I.**

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of subdivision (34) of this subsection only, the term isomer includes the optical and geometric isomers):

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl) -4-piperidiny]—phenylacetamide);

(2) Acetylmethadol;

(3) Allyprodine;

(4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(— propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl- 4-piperidiny]—phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4- piperidiny]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;



(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: Provided, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article;

~~(29)~~ (30) Furethidine;

~~(30)~~ (31) Hydroxypethidine;

~~(31)~~ (32) Ketobemidone;

~~(32)~~ (33) Levomoramide;

~~(33)~~ (34) Levophenacymorphan;

~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-piperidiny]—phenylpropanamide);

~~(36)~~ (37) Morpheridine;

~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

~~(38)~~ (39) Noracymethadol;

~~(39)~~ (40) Norlevorphanol;

~~(40)~~ (41) Normethadone;

~~(41)~~ (42) Norpipanone;

~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);

~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

~~(44)~~ (45) Phenadoxone;

~~(45)~~ (46) Phenampromide;

~~(46)~~ (47) Phenomorphan;

- ~~(47)~~ (48) Phenoperidine;
- ~~(48)~~ (49) Piritramide;
- ~~(49)~~ (50) Proheptazine;
- ~~(50)~~ (51) Properidine;
- ~~(51)~~ (52) Propiram;
- ~~(52)~~ (53) Racemoramide;
- ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4- piperidinyl]-propanamide);
- ~~(54)~~ (55) Tilidine;
- ~~(55)~~ (56) Trimeperidine.

(c) *Opium derivatives*. — Unless specifically excepted or unless listed in another schedule, any of the following opium immediate derivatives, its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;

- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) *Hallucinogenic substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term “isomer” includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

(3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

(4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe.

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

(C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)

(5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

(6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

(7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

(8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

(9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

(10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(15) (16) 5-methoxy-N, N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

(18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);

(22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

(23) Lysergic acid diethylamide;

(24) Marijuana;

(25) Mescaline;

(26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

(27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of such plant, its seeds or extracts;

(28) N-ethyl-3-piperidyl benzilate;

(29) N-methyl-3-piperidyl benzilate;

(30) Psilocybin;

(31) Psilocyn;

(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(34) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TCP, TCP;

(36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

(37) 4-methylmethcathinone (Mephedrone);

(38) 3,4-methylenedioxypropylvalerone (MDPV);

(39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

(41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

(42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

(43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

(44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

(45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

(46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

(47) 2-(2,5-Dimethoxy-

4-(n)-propylphenyl)ethanamine (2C-P)

(48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

(49) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

(50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

(A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl) phenol {also known as CP 47,497 and homologues};

(B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as CP 47,497-C8 homolog};

(C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-210};

(D) (dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo

[c]chromen-1-ol) {also known as HU-211};

(E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

(F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};

(G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};

(H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};

(I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as JWH-200};

(J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};

(K) 2-((1S,2S,5S)-5-hydroxy-2- (3-hydroxypropyl)cyclohexyl) -5-(2-methyloctan-2-yl)phenol {also known as CP 55,940};

(L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-122};

(M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-398};

(N) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

(O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known as RCS-8};

(P) 1-pentyl-3-[1-(4-methoxynaphthoyl) indole (JWH-081);

(Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and

(R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10,10A-tetrahydrobenzo[C] chromen-1-OL)];

(C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo [ C ] chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)- Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

(A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with analogous chemical structure and or pharmacological activity such as the following:

(i) DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.

(ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their Optical isomers.

(iii) DELTA-3,4 CIS OR their trans tetrahydrocannabinol and their optical isomers.

(B) Naphthoyl indoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

- (i) JWH 015;
- (ii) JWH 018;
- (iii) JWH 019;
- (iv) JWH 073;
- (v) JWH 081;
- (vi) JWH 122;
- (vii) JWH 200;
- (viii) JWH 210;
- (ix) JWH 398;
- (x) AM 2201;
- (xi) WIN 55,212.

(56) Synthetic Phenethylamines (including their optical, positional, and geometric isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers):

(A) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-NBOMe);

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-NBOMe);

(C) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-NBOMe);

(57) Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters and ethers):

(A) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

(B) furanyl fentanyl;

(C) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700);

(D) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);



(E) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl).

(58) Opioid Receptor Agonist (including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers):

(A) AH-7921 (3,4-dichloro-N- (1dimethylamino)cyclohexylmethyl]benzamide).

~~(56)~~ (59) Naphylmethylindoles or any compound containing a 1indol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

~~(57)~~ (60) Naphthoylpyrroles or any compound containing a 3-(1- Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

~~(58)~~ (61) Naphthylmethylindenes or any compound containing a Naphthylideneindene structure with substitution at the 3- Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

~~(59)~~ (62) Phenylacetylindoles or any compound containing a 3- Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

(A) RCS-8, SR-18 OR BTM-8;

(B) JWH 250;

(C) JWH 203;

(D) JWH 251;

(E) JWH 302.

~~(60)~~ (63) Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl) phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

(A) CP 47,497 and its homologues and analogs;

(B) Cannabicyclohexanol;

(C) CP 55,940.

~~(64)~~ (64) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitroren atom of the indole ring whether or not further substituted in the indole

ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

(A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

~~(62)~~ (65) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

~~(63)~~ (66) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051 and JWH 133.

~~(64)~~ (67) Adamantoylindoles or any compound containing a 3-(-1- Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

~~(65)~~ (68) Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

~~(66)~~ (69) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

~~(67)~~ (70) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

~~(68)~~ (71) Tryptamines:

(A) 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)

(B) 4-hydroxy-N, N-diisopropyltryptamine (4-HO-DiPT)

(C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

(D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

(E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)

(F) 5-methoxy- $\alpha$ -methyltryptamine (5-MeO-AMT)

(G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)

(H) 4-hydroxy Diethyltryptamine (4-HO-DET)

(I) 5- methoxy- N, N- diallyltryptamine (5-MeO-DALT)

(J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO DMT)

(K) 4-hydroxy Diethyltryptamine (4-HO-DET)

(72) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA);

(73) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);

(74) [1-(5-fluoropentyl)-1H-indazol-3-yl (naphthalen-1-yl)methanone (THJ-2201);

(75) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC);

(76) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22);

(77) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA);

(78) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA); and

(79) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (common names, MAB-CHMINACA and ADB-CHMINACA);

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(f) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Aminorex; some other names: aminoxaphen; 2-amino-5- phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(2) Cathinone; some trade or other names: 2-amino-1-phenyl-1- propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(3) Fenethylamine;

(4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylpyrovalerone and/or mephedrone; 3,4-methylenedioxypropylpyrovalerone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432;

(5) (+-) cis-4-methylaminorex; ((+-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine; also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(8) Alpha-pyrrolidinopropiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers.

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

(F) 4-chloroamphetamine

(G) 2-Fluoromethamphetamine

(H) 3-Fluoromethamphetamine

(I) 4-Fluoromethamphetamine

(J) 4-chloromethamphetamine

(10) 4-methyl-N-ethylcathinone (4-MEC);

(11) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(12) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

(13) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(14) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

(15) 4-fluoro-N-methylcathinone (4-FMC);

(16) 3-fluoro-N-methylcathinone (3-FMC);

(17) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and

(18) Alpha-pyrrolidinobutiophenone ( $\alpha$ -PBP).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers.

(2) N-[1-(2-thienyl) methyl-4-piperidyl]-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts and salts of isomers.

(3) N-benzylpiperazine, also known as BZP.

(h) The following controlled substances are included in Schedule I:

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

(A) By substitution in the ring system to any extent with Alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide Substituents whether or not further substituted in the ring system by one or more other univalent substituents.

(B) By substitution at the 3-Position with an acyclic alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups.

(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

#### **§60A-2-206. Schedule II.**

(a) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) *Substances, vegetable origin or chemical synthesis.* — Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextroprhan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Dihydroetorphine;
- (I) Ethylmorphine;
- (J) Etorphine hydrochloride;
- (K) Hydrocodone;
- (L) Hydromorphone;
- (M) Metopon;
- (N) Morphine;
- (O) Oripavine;
- (P) Oxycodone;
- (Q) Oxymorphone; and
- (R) Thebaine;

(2) Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) *Opiates*. — Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk dextropropoxyphene (nondosage forms);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alpha-acetylmethadol; some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM;
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (18) Pethidine; (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4- phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;

(24) Racemethorphan;

(25) Racemorphan;

(26) Remifentanyl;

(27) Sufentanyl; and

(28) Tapentadol and

(29) Thiafentanyl (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-2-(thienyl)ethylpiperidine), including its isomers, esters, ethers, salts and salts of isomers, esters and ethers.

(d) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers and salts of its isomers;

(3) Methylphenidate;

(4) Phenmetrazine and its salts; and

(5) Lisdexamfetamine.

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) *Hallucinogenic substances*:

Nabilone: [Another name for nabilone: (+-)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

(g) *Immediate precursors*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:



(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone;

(B) Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine; and

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

(3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

**§60A-2-210. Schedule IV.**

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) *Narcotic drugs.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(c) *Depressants.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;

(2) Barbital;

(3) Bromazepam;

(4) Camazepam;

(5) Carisoprodol;

(6) Chloral betaine;

(7) Chloral hydrate;

(8) Chlordiazepoxide;

(9) Clobazam;

- (10) Clonazepam;
- (11) Clorazepate;
- (12) Clotiazepam;
- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Dichloralphenazone;
- (17) Estazolam;
- (18) Ethchlorvynol;
- (19) Ethinamate;
- (20) Ethyl loflazepate;
- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;
- (24) Fospropofol;
- (25) Halazepam;
- (26) Haloxazolam;
- (27) Ketazolam;
- (28) Loprazolam;
- (29) Lorazepam;
- (30) Lormetazepam;
- (31) Mebutamate;
- (32) Medazepam;
- (33) Meprobamate;
- (34) Methohexital;
- (35) Methylphenobarbital (mephobarbital);

- (36) Midazolam;
- (37) Nimetazepam;
- (38) Nitrazepam;
- (39) Nordiazepam;
- (40) Oxazepam;
- (41) Oxazolam;
- (42) Paraldehyde;
- (43) Petrichloral;
- (44) Phenobarbital;
- (45) Pinazepam;
- (46) Prazepam;
- (47) Quazepam;
- (48) Temazepam;
- (49) Tetrazepam;
- (50) Triazolam;
- (51) Zaleplon;
- (52) Zolpidem;
- (53) Zopiclone;

(54) Suvorexant ([[(7R)-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl] [5-methyl-2-(2H-1,2,3-triazol-2-yl)phenyl]methanone).

(d) Any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible: Fenfluramine and Dexfenfluramine.

(e) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;

- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Pemoline (including organometallic complexes and chelates thereof);
- (9) Phentermine;
- (10) Pipradrol;
- (11) Sibutramine;
- (12) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(13) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid);

(f) *Other substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- (1) Pentazocine;
- (2) Butorphanol;

(3) ~~tramadol hydrochloride.~~ Tramadol (2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol).

Amyl nitrite, butyl nitrite, isobutyl nitrite and the other organic nitrites are controlled substances and no product containing these compounds as a significant component shall be possessed, bought or sold other than pursuant to a bona fide prescription or for industrial or manufacturing purposes.

#### **§60A-2-212. Schedule V.**

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) *Stimulants*. — Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Pyrovalerone.

(d) Any compound, mixture or preparation containing as its single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under the age of twelve: *Provided*, That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine which shall be subject to the provisions of article ten of this chapter.

(e) *Depressants*. — Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

(2) Lacosamide [(R)-2-acetoamido- N -benzyl-3-methoxy-propionamide];

(3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]; and

(4) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact), including its salts.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 2526), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2586**, Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board.

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

**Eng. House Bill 2653**, Extending the Multi State Real-Time Tracking System.

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

**Eng. House Bill 2706**, Authorizing legislative rules regarding higher education.

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

**Eng. Com. Sub. for House Bill 2731**, Clarifying civil actions heard in circuit court.

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

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

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

**ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

**§51-2-2. Jurisdiction.**

(a) The circuit court shall have supervision and control of all proceedings before magistrates, by mandamus, prohibition and certiorari.

(b) Except in cases confined exclusively by the Constitution to some other tribunal, the circuit court shall have original and general jurisdiction of all matters at law where the amount in controversy, excluding interest, exceeds ~~\$2,500~~ \$5,000. *Provided*, That the jurisdictional limit on amounts in controversy does not apply to real estate installment sales contracts.

(c) The circuit court shall have original and general jurisdiction in all of the following matters:

- (1) Habeas corpus;
- (2) Mandamus;
- (3) Quo warranto;
- (4) Prohibition;
- (5) Crimes; and
- (6) Misdemeanors.

(d) The circuit court shall have original and general jurisdiction in all cases in equity, including jurisdiction in equity to remove any cloud on the title to real property, or any part of a cloud, or any estate, right or interest in the real property, and to determine questions of title with respect to the real property without requiring allegations or proof of actual possession of the real property.

(e) The circuit court shall have appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or supersedeas may be allowed to the judgment or proceedings of any inferior tribunal.

(f) The circuit court shall also have any other jurisdiction, whether supervisory, original, appellate or concurrent, as is or may be prescribed by law.

The bill (Eng. Com. Sub. for H. B. 2731), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2739**, Relating to supplemental Medicaid provider reimbursement.

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

At the request of Senator Takubo, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

On page three, section twenty-five, after line forty-eight, by inserting a new subdivision, designated subdivision (4), to read as follows:

(4) Notwithstanding the provisions of subdivision (1) of this subsection, the Department of Health and Human Resources shall, prior to seeking federal approval of any supplemental reimbursement pursuant to this section, attempt to maximize the number of qualified group emergency medical transportation service providers eligible to receive the supplemental reimbursement. These emergency medical transportation service providers would include:

(A) Any not-for-profit emergency medical transport providers not owned by the state or a city, a county, or a city and county;

(B) Any voluntary emergency transportation service providers not owned by the state or a city, a county, or a city and county; and

(C) All other emergency medical transportation service providers licensed pursuant to the provisions of article four-c, chapter sixteen of this code,

The bill (Eng. Com. Sub. for H. B. 2739), as amended, was then ordered to third reading.

**Eng. House Bill 2796**, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services.

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

**Eng. House Bill 2856**, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train.

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

**Eng. Com. Sub. for House Bill 2948**, Establishing timelines for taking final action on certain permits.

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

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

On pages thirty-one and thirty-two, by striking out all of section ten and inserting in lieu thereof the following:

**§47-1A-10. Sterilization processes; annual permits; fees.**

~~(4) (a) Any sterilization process used in connection herewith shall be approved by the commissioner. Every person desiring to operate such sterilization process shall first obtain a numbered permit from the commissioner and shall not operate such process unless such permit is kept conspicuously posted in his or her establishment. ~~The fee for an original permit shall be twenty-five dollars.~~ Application for such permit shall be accompanied by the specifications for the sterilization process to be employed by the applicant, in such form as the commissioner shall require. The commissioner shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested. Such permit shall expire one year from date of issue ~~and the fee for annual renewal of the sterilization permit shall be ten dollars.~~~~

~~(2) Every application for a sterilization permit to be held in a state other than West Virginia shall be approved only after personal inspection of the applicant's sterilizer or disinfecter by the commissioner or an authorized employee of the bedding division of the department. The expenses for such inspections out of the state shall be paid by the applicant.~~

~~(3) (b) The commissioner may revoke or suspend any permit for violation of the provisions of this article. Upon notification of such revocation or suspension, the person to whom the permit was issued, or his or her successor or assignee, shall forthwith return such permit to the commissioner. ~~For reissuing a revoked or expired permit, the fee shall be the same as for an original permit.~~~~

The bill (Eng. Com. Sub. for H. B. 2948), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Eng. Com. Sub. for House Bill 2006**, Increasing the penalties for violating the Whistle-blower Law.

**Eng. Com. Sub. for House Bill 2083**, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing.

**Eng. House Bill 2119**, Repealing West Virginia Health Benefit Exchange Act.



**Eng. Com. Sub. for House Bill 2219**, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

**Eng. Com. Sub. for House Bill 2303**, Increasing criminal penalties for littering.

**Eng. Com. Sub. for House Bill 2319**, Relating to candidates or candidate committees for legislative office disclosing contributions.

**Eng. Com. Sub. for House Bill 2367**, Establishing a criminal offense of organized retail crime.

**Eng. Com. Sub. for House Bill 2373**, Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors.

**Eng. House Bill 2427**, Requiring agencies listed in the online state phone directory to update certain employee information.

**Eng. House Bill 2446**, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

**Eng. Com. Sub. for House Bill 2453**, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.

**Eng. Com. Sub. for House Bill 2475**, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents.

**Eng. House Bill 2548**, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer.

**Eng. Com. Sub. for House Bill 2555**, Relating to tax credits for apprenticeship training in construction trades.

**Eng. Com. Sub. for House Bill 2619**, Risk Management and Own Risk and Solvency Assessment Act.

**Eng. Com. Sub. for House Bill 2676**, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

**Eng. Com. Sub. for House Bill 2683**, Relating to West Virginia Insurance Guaranty Association Act.

**Eng. Com. Sub. for House Bill 2726**, Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order.

**Eng. Com. Sub. for House Bill 2734**, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory.

**Eng. Com. Sub. for House Bill 2767**, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

**Eng. Com. Sub. for House Bill 2898**, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

**Eng. Com. Sub. for House Bill 2939**, Relating to the sale of items in the State Police Academy post exchange to the public.

**Eng. Com. Sub. for House Bill 2949**, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements.

**Eng. House Bill 2963**, Eliminating tax lien waiver requirement for estates of nonresidents.

And,

**Eng. Com. Sub. for House Bill 2980**, Relating to civil lawsuit filing fees for multiple defendant civil action.

Without objection, the Senate returned to the third order of business.

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

**House Concurrent Resolution 26**—Urging Congress and NASA to name the NASA IV & V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson.

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

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

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

Thereafter, at the request of Senator Ferns, unanimous consent being granted, the remarks by Senator Boso regarding the adoption of House Concurrent Resolution 26 were ordered printed in the Appendix to the Journal.

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

**House Concurrent Resolution 94**—Proclaiming and making August 26 of each year to be Katherine Johnson Day celebrating her many NASA achievements in establishing the United States as the premier explorer of outer space, including the moon landing and the NASA Shuttle, and as the recipient of the nation's highest civilian honor, the Presidential Medal of Freedom.

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

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

The roll being taken, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (H. C. R. 94) adopted.

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

The Senate proceeded to the sixth order of business.

Senators Rucker, Boso, Clements, Stollings, Swope, Plymale, Unger, Beach and Miller offered the following resolution:

**Senate Resolution 66**—Honoring the accomplishments of Katherine Johnson, West Virginia native and Presidential Medal of Freedom recipient.

Whereas, Katherine Johnson was born August 26, 1918, in White Sulphur Springs, Greenbrier County, West Virginia, the daughter of Joshua and Joylette Coleman; and

Whereas, By the age of thirteen, Katherine Johnson was attending the high school on the campus of historically African-American West Virginia State College. At eighteen, she enrolled in the college itself, where she made quick work of the school's math curriculum and found a mentor in math professor W. W. Schieffelin Claytor, the third African-American to earn a PhD in Mathematics. She graduated summa cum laude in 1937, with degrees in Mathematics and French, at age 18; and

Whereas, Katherine Johnson was the first African-American woman to attend graduate school at West Virginia University in Morgantown, West Virginia; and

Whereas, In 1953, Katherine Johnson was hired by the National Advisory Committee for Aeronautics, as a mathematician, and continued to work for the organization which became the National Aeronautics and Space Administration (NASA) in 1958; and

Whereas, Katherine Johnson, from 1958 until her retirement in 1986, worked as an aerospace technologist, moving during her career to the Spacecraft Controls Branch; and

Whereas, During her extraordinary career at NASA, Katherine Johnson accomplished many amazing feats, such as: Calculating the trajectory for the May 5, 1961, space flight of Alan Shepard, the first American in space, and the launch window for his 1961 Mercury mission; she plotted backup navigational charts for astronauts in case of electronic failures; when NASA used electronic computers for the first time to calculate John Glenn's orbit around Earth, officials called on Johnson to verify the computer's numbers. Glenn had asked for her specifically and had refused to fly unless Johnson verified the calculations; and Johnson also helped to calculate the trajectory for the 1969 Apollo 11 flight to the moon; and

Whereas, In 1970, Katherine Johnson worked on the Apollo 13 moon mission. When the mission was aborted, her work on backup procedures and charts helped set a safe path for the

crew's return to Earth, creating a one-star observation system that would allow astronauts to determine their location with accuracy; and

Whereas, Katherine Johnson's life served as the basis for a nonfiction book, titled *Hidden Figures: The American Dream and the Untold Story of the Black Women Mathematicians Who Helped Win the Space Race*, which inspired the award-winning motion picture; and

Whereas, In 2015, cited as a pioneering example of African-American women in STEM, President Barack Obama presented Katherine Johnson with the Presidential Medal of Freedom, the highest civilian award of the United States; and

Whereas, It is fitting that the West Virginia Senate honor Katherine Johnson for her career as a pioneer in space science and computing and for her dedicated public service to a grateful nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby honors the accomplishments of Katherine Johnson, West Virginia native and Presidential Medal of Freedom recipient; and, be it

*Further Resolved*, That the Senate extends its sincere gratitude and appreciation to Katherine Johnson for her dedicated public service to the United States of America; and, be it

*Further Resolved*, That the Clerk is hereby directed forward a copy of this resolution to Katherine Johnson.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Rucker and Miller regarding the adoption of Senate Resolution 66 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate recessed until 4 p.m. today.

Upon expiration of the recess, the Senate reconvened and, without objection, returned to the third order of business.

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

**Eng. Senate Bill 256**, Relating to prohibiting aiding and abetting of sexual abuse by school personnel.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section twenty-two, line two, after the word “agency” by adding a comma and the words “public or private,”.

On motion of Senator Ferns, the following amendment to the House of Delegates amendment to the bill (Eng. S. B. 256) was reported by the Clerk and adopted:

On page one, section twenty-two, line two, by striking out the words “public or private” and inserting in lieu thereof the words “including any employee of a public or private school,”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Senate Bill 256, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 256) passed with its title.

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

The Senate again proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of April, 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:

**(Com. Sub. for S. B. 113)**, Authorizing DEP promulgate legislative rules.

**(Com. Sub. for S. B. 338)**, Relating to medical professional liability.

**(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.

And,

**(H. B. 2774)**, Defining special aircraft property.

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

**Senate Bill 199**, Budget Bill.

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

**Com. Sub. for Senate Bill 199** (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Ferns requested unanimous consent that the bill (Com. Sub. for S. B. 199) contained in the preceding report from the Committee on Finance be taken up for immediate consideration.

Which consent was not granted, Senator Unger objecting.

Senator Ferns then moved that the bill (Com. Sub. for S. B. 199) contained in the preceding report from the Committee on Finance be taken up for immediate consideration.

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

The roll being taken, the yeas were: Azinger, Blair, Boley, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—19.

The nays were: Beach, Facemire, Jeffries, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—13.

Absent: Boso and Maroney—2.

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

Thereafter, the bill (Com. Sub. for S. B. 199) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2129**, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 2579**, Increasing the penalties for transporting controlled substances.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2195**, Relating to requiring comprehensive drug awareness and prevention program in all public schools.

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

Respectfully submitted,

Kenny Mann,  
*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

**Eng. House Bill 2348**, Eliminating any requirement that class hours of students be consecutive.

**Eng. House Bill 2691**, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber.

And,

**Eng. House Bill 2833**, Specifying the contents and categories of information for inclusion in annual reports.

And reports the same back with the recommendation that they each 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

**Eng. Com. Sub. for House Bill 2402**, Relating to abandoned antique vehicles.

And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2494**, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request.

And has amended same.

**Eng. Com. Sub. for House Bill 2589**, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school.

And has amended same.

**Eng. Com. Sub. for House Bill 2702**, Relating to excused absences for personal illness from school.

And has amended same.



**Eng. Com. Sub. for House Bill 2771**, Relating to temporary teaching certificates for Armed Forces spouses.

And has amended same.

**Eng. Com. Sub. for House Bill 2815**, Relating to higher education governance.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 3080**, Requiring instruction in the Declaration of Independence and the United States Constitution.

And has amended same.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2546**, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2585**, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2603**, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more.

And reports the same back with the recommendation that it 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

**Eng. Com. Sub. for House Bill 2631**, Relating to time standards for disposition of complaint proceedings.

And reports the same back with the recommendation that it 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

**Eng. Com. Sub. for House Bill 2646**, Terminating the Women's Commission and discontinue its functions.

And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2704**, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools.

And has amended same.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Education pending.

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

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2709**, Authorizing the City of South Charleston to levy a special district excise tax.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2720**, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund.

And has amended same.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

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

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2805**, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

And has amended same.

**Eng. Com. Sub. for House Bill 2961**, Relating generally to charitable bingo games and charitable raffles.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 3048**, Relating to collection of Tier II fees for chemical inventories.

And has amended same.

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

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

**Eng. House Bill 2869**, Providing for paid leave for certain state officers and employees during a declared state of emergency.

And has amended same.

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

Respectfully submitted,

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

**Eng. Com. Sub. for House Bill 2897**, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions.

And has amended same.

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

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

**Eng. House Bill 2962**, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors.

And has amended same.

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

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

**Eng. House Bill 2967**, Relating generally to administration of estates and trusts.

And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 3022**, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 3037**, Removing the Division of Energy as an independent agency.

And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Tuesday, April 4, 2017, at 11 a.m.

---

## **SENATE CALENDAR**

**Tuesday, April 04, 2017**  
**11:00 AM**

---

### **SPECIAL ORDER OF BUSINESS** **Saturday, April 08, 2017 – 11:00 AM**

Consideration of executive nominations

---

### **UNFINISHED BUSINESS**

S. C. R. 53 - US Army SGT Benny Fleming Memorial Bridge

### **THIRD READING**

Eng. Com. Sub. for S. B. 304 - Appropriating expiring funds from State Fund, General Revenue to DHHR (original similar to HB3103)

Eng. Com. Sub. for S. B. 476 - Expiring funds from Revenue Shortfall Reserve Fund to General Revenue (original similar to HB2801)

Eng. S. B. 694 - Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration

Eng. H. B. 2188 - Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth

Eng. Com. Sub. for H. B. 2364 - Prohibiting electioneering within or near early voting locations during early voting periods - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2404 - Barring persons who are convicted of certain criminal offenses from acquiring property from their victims

Eng. Com. Sub. for H. B. 2479 - Uniform Deployed Parents Custody and Visitation Act - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2509 - Relating to the practice of telemedicine - (Com. title amend. pending)

Eng. H. B. 2518 - Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations

Eng. Com. Sub. for H. B. 2519 - Medicaid program compact - (Com. title amend. pending)

Eng. H. B. 2522 - Nurse licensure compact

Eng. Com. Sub. for H. B. 2526 - Classifying additional drugs to Schedules I, II, IV and V of controlled substances

- Eng. Com. Sub. for H. B. 2586 - Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board (original similar to SB355)
- Eng. H. B. 2653 - Extending the Multi State Real-Time Tracking System
- Eng. H. B. 2706 - Authorizing legislative rules regarding higher education
- Eng. Com. Sub. for H. B. 2731 - Clarifying civil actions heard in circuit court - (Com. title amend. pending) (original similar to SB454)
- Eng. Com. Sub. for H. B. 2739 - Relating to supplemental Medicaid provider reimbursement
- Eng. H. B. 2796 - Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services (original similar to SB502)
- Eng. H. B. 2856 - Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2948 - Establishing timelines for taking final action on certain permits

## **SECOND READING**

- Com. Sub. for S. B. 199 - Budget Bill
- Eng. Com. Sub. for H. B. 2006 - Increasing the penalties for violating the Whistle-blower Law
- Eng. Com. Sub. for H. B. 2083 - Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing - (Com. amend. and title amend. pending)
- Eng. H. B. 2119 - Repealing West Virginia Health Benefit Exchange Act
- Eng. Com. Sub. for H. B. 2219 - Authorizing miscellaneous boards and agencies to promulgate legislative rules - (Com. amend. pending) (original similar to SB84)
- Eng. Com. Sub. for H. B. 2303 - Increasing criminal penalties for littering - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2319 - Relating to candidates or candidate committees for legislative office disclosing contributions - (Com. title amend. pending) (original similar to SB8)
- Eng. Com. Sub. for H. B. 2367 - Establishing a criminal offense of organized retail crime - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2373 - Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors - (Com. amend. and title amend. pending)
- Eng. H. B. 2427 - Requiring agencies listed in the online state phone directory to update certain employee information (original similar to SB267)
- Eng. H. B. 2446 - Relating to the requirement that all executive branch agencies maintain a website that contains specific information - (Com. amend. pending) (original similar to SB269)



- Eng. Com. Sub. for H. B. 2453 - Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp
- Eng. Com. Sub. for H. B. 2475 - Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents
- Eng. H. B. 2548 - Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer (original similar to HB2888)
- Eng. Com. Sub. for H. B. 2555 - Relating to tax credits for apprenticeship training in construction trades - (Com. amends. and title amend. pending) (original similar to SB191)
- Eng. Com. Sub. for H. B. 2619 - Risk Management and Own Risk and Solvency Assessment Act - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2676 - Transferring the Security office under the Division of Culture and History to the Division of Protective Services
- Eng. Com. Sub. for H. B. 2683 - Relating to West Virginia Insurance Guaranty Association Act (original similar to SB434)
- Eng. Com. Sub. for H. B. 2726 - Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order
- Eng. Com. Sub. for H. B. 2734 - Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory - (Com. amends. pending) (original similar to SB603)
- Eng. Com. Sub. for H. B. 2767 - Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2898 - Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature
- Eng. Com. Sub. for H. B. 2939 - Relating to the sale of items in the State Police Academy post exchange to the public (original similar to SB570, SB665)
- Eng. Com. Sub. for H. B. 2949 - Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements
- Eng. H. B. 2963 - Eliminating tax lien waiver requirement for estates of nonresidents (original similar to SB594)
- Eng. Com. Sub. for H. B. 2980 - Relating to civil lawsuit filing fees for multiple defendant civil action - (Com. amend. and title amend. pending)

### **FIRST READING**

- Eng. Com. Sub. for H. B. 2129 - Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2195 - Relating to requiring comprehensive drug awareness and prevention program in all public schools

Eng. H. B. 2348 - Eliminating any requirement that class hours of students be consecutive

Eng. Com. Sub. for H. B. 2402 - Relating to abandoned antique vehicles - (Com. amends. pending) (original similar to HB2445, SB382)

Eng. Com. Sub. for H. B. 2494 - Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2503 - Relating to the rulemaking authority for Board of Osteopathic Medicine

Eng. Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2579 - Increasing the penalties for transporting controlled substances - (Com. amend. and title amend. pending) (original similar to HB2448, HB2602)

Eng. Com. Sub. for H. B. 2585 - Creating felony crime of conducting financial transactions involving proceeds of criminal activity - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2589 - Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2603 - Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more

Eng. H. B. 2628 - Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine - (Com. amend. and title amend. pending) (original similar to HB2423, HB2630)

Eng. Com. Sub. for H. B. 2631 - Relating to time standards for disposition of complaint proceedings

Eng. Com. Sub. for H. B. 2646 - Terminating the Women's Commission and discontinue its functions - (Com. amend. and title amend. pending)

Eng. H. B. 2691 - Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber

Eng. Com. Sub. for H. B. 2702 - Relating to excused absences for personal illness from school - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2709 - Authorizing the City of South Charleston to levy a special district excise tax (original similar to SB565)

Eng. Com. Sub. for H. B. 2771 - Relating to temporary teaching certificates for Armed Forces spouses - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2792 - Requiring the Library Commission to survey the libraries of the state

- Eng. Com. Sub. for H. B. 2797 - Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records
- Eng. Com. Sub. for H. B. 2805 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state - (Com. amends. pending)
- Eng. Com. Sub. for H. B. 2815 - Relating to higher education governance - (Com. amends. and title amend. pending)
- Eng. H. B. 2833 - Specifying the contents and categories of information for inclusion in annual reports
- Eng. Com. Sub. for H. B. 2839 - Updating the procedures for legislative review of departments and licensing boards
- Eng. H. B. 2869 - Providing for paid leave for certain state officers and employees during a declared state of emergency - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2897 - Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions - (Com. amends. pending)
- Eng. Com. Sub. for H. B. 2941 - Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services
- Eng. Com. Sub. for H. B. 2961 - Relating generally to charitable bingo games and charitable raffles - (Com. title amend. pending) (original similar to SB625)
- Eng. H. B. 2962 - Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors - (Com. amend. pending) (original similar to SB598)
- Eng. H. B. 2967 - Relating generally to administration of estates and trusts - (Com. amends. pending)
- Eng. H. B. 3022 - Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations
- Eng. H. B. 3037 - Removing the Division of Energy as an independent agency - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3048 - Relating to collection of Tier II fees for chemical inventories - (Com. title amend. pending) (original similar to SB629)
- Eng. H. B. 3053 - Relating to motor vehicle lighting
- Eng. Com. Sub. for H. B. 3080 - Requiring instruction in the Declaration of Independence and the United States Constitution - (Com. amend. pending)

## **ANNOUNCED SENATE COMMITTEE MEETINGS**

### **Regular Session 2017**

---

**Tuesday, April 4, 2017**

9:30 a.m.	Finance	(Room 451M)
10 a.m.	Transportation & Infrastructure	(Room 451M)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)