

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Thursday, April 6, 2017

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jim Walther, Jr., Retired Presbyterian Clergy, Elkview, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Glenn D. Jeffries, a senator from the eighth district.

Pending the reading of the Journal of Wednesday, April 5, 2017,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-1-21; that §30-3-10a of said code be amended and reenacted; that §30-3E-14 of said code be amended and reenacted; that §30-4-15 of said code be amended and

reenacted; that §30-5-17 of said code be amended and reenacted; that §30-7-6a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-7-6b; that said code be amended by adding thereto a new section, designated §30-7A-6a; that §30-8-16 of said code be amended and reenacted; that §30-14-12b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-16-7a; that §30-20-13 of said code be amended and reenacted; that §30-21-17 of said code be amended and reenacted; and that §30-28-8a of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-21. Exemption from licensure for professional practice for a charitable function.

(a) A person holding an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to practice a profession or occupation licensed under this chapter may serve as a volunteer without compensation for a charitable function for a period not to exceed ten days, subject to the approval process described in this section: *Provided*, That a person who has received any completed disciplinary actions in which discipline was ordered in any of the three most recent years, or is the subject of any pending disciplinary actions is not eligible for this charitable exemption from licensure.

(b) The person shall notify the board of the nature of the volunteer charitable practice, the specific dates the person will participate in the charitable practice, and shall provide to the board a list of all professional and occupational licenses, registrations, permits or certificates held in each state or jurisdiction for the previous three years.

(c) Upon a review of the information required by this section, the board shall provide a temporary authorization to a qualified volunteer to participate in the volunteer activity for the duration not to exceed ten days. Each board shall keep a record of each authorization issued pursuant to his section.

(d) The board may not charge a fee to authorize this charitable practice.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that:

(1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia;

(2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, but may donate to the clinic the proceeds of any reimbursement for any medical services rendered under the special volunteer medical license;

(3) the physician will supply any supporting documentation that the board may reasonably require; and

(4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of medicine in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered under an arrangement may be performed in either the physician's office or the clinical setting.

~~(b)~~ (c) Any physician who renders any medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge ~~shall~~ is not be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive

status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section: *Provided*, That this subsection shall not apply to a terminated policy, terminated contract of liability insurance or extended reporting endorsement attached thereto that provides "tail insurance" as defined by section two, article twenty-d, chapter thirty-three of this code: *Provided, however*, That nothing within this subsection shall be construed to extend coverage under a terminated policy or terminated contract of liability insurance or any extended reporting endorsement attached thereto to: (1) Alter or amend the effective policy period of any policy, contract of liability insurance or extended reporting endorsement; or (2) cover the treatment of indigent and needy patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-14. Special volunteer physician assistant license.

(a) A special volunteer physician assistant license may be issued to a physician assistant who:

(1) Is retired or is retiring from the active practice of medicine; and

(2) Wishes to donate his or her expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer physician assistant license shall be issued by the appropriate licensing board:

(1) To a physician assistant licensed or otherwise eligible for licensure under this article;

(2) Without the payment of any fee; and

(3) The initial license shall be issued for the remainder of the licensing period.

(c) The special volunteer physician assistant license shall be renewed consistent with the appropriate licensing board's other licensing requirements.

(d) The appropriate licensing board shall develop application forms for the special volunteer physician assistant license which shall contain the physician assistant's acknowledgment that:

(1) The physician assistant's practice under the special volunteer physician assistant license shall be exclusively devoted to providing medical care to needy and indigent persons in West Virginia;

(2) The physician assistant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer physician assistant license;

(3) The physician assistant shall supply any supporting documentation that the appropriate licensing board may reasonably require; and

(4) The physician assistant agrees to continue to participate in continuing education as required by the appropriate licensing board for the special volunteer physician assistant license.

(e) A physician assistant and his or her collaborating physician who ~~renders~~ render medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer physician assistant license, without payment or compensation or the expectation or promise of payment or compensation, ~~is~~ are immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician assistant's and his or her collaborating physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the physician assistant and the clinic pursuant to which the physician assistant shall provide voluntary uncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician assistant at the clinic. Any clinic entering into a written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(f) Notwithstanding the provisions of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physician assistant rendering voluntary medical services at or for the clinic under a special volunteer physician assistant license.

(g) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure under this article, except the fee requirements.

(h) Nothing in this section may be construed as requiring the appropriate licensing board to issue a special volunteer physician assistant license to any physician assistant whose license is or has been subject to any disciplinary action or to any physician assistant who has surrendered a physician assistant license or caused his or her license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a physician assistant license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a physician assistant license.

(i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing the policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician assistant who holds a special volunteer physician assistant license.

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.**§30-4-15. Special volunteer dentist or dental hygienist license; civil immunity for voluntary services rendered to indigents.**

(a) There is continued a special volunteer dentist and dental hygienist license for dentist and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dentist or dental hygienist license shall be issued by the board to dentist or dental hygienists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dental hygienist's acknowledgment that:

(1) The dentist or dental hygienist's practice under the special volunteer dentist or dental hygienist license will be exclusively devoted to providing dentistry or dental hygiene care to needy and indigent persons in West Virginia;

(2) The dentist or dental hygienist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered under the special volunteer dentist or dental hygienist license;

(3) The dentist or dental hygienist will supply any supporting documentation that the board may reasonably require; and

(4) The dentist or dental hygienist agrees to continue to participate in continuing professional education as required by the board for the special volunteer dentist or dental hygienist.

(b) Any person engaged in the active practice of dentistry and dental hygiene in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the dentist or dental hygienist or the clinical setting.

~~(b)~~ (c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental hygiene service at the clinic unless the act or omission was the result of the dentist's or dental hygienist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the dentist or dental hygienist and the clinic pursuant to which the dentist or dental hygienist will provide voluntary uncompensated dental hygiene services under the control of the clinic to patients of the clinic before the rendering of any services by the dentist or dental

hygienist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dentist or dental hygienist rendering voluntary dental hygiene services at or for the clinic under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer dentist or dental hygienist license to any dentist or dental hygienist whose license is or has been subject to any disciplinary action or to any dentist or dental hygienist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her dentist or dental hygienist license, or who has elected to place a dentist or dental hygienist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a dentist or dental hygienist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dentist or dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-17. Special volunteer pharmacist license; civil immunity for voluntary services rendered to indigents.

(a) There is a special volunteer pharmacist license for pharmacists retired or retiring from the active practice of pharmacist care who wish to donate their expertise for the pharmacist care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer pharmacist license shall be issued by the board to pharmacists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the pharmacist’s acknowledgment that:

(1) The pharmacist's practice under the special volunteer pharmacist license shall be exclusively devoted to providing pharmacist care to needy and indigent persons in West Virginia;

(2) The pharmacist may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, but may donate to the clinic the proceeds of any reimbursement for any pharmacist care rendered under the special volunteer pharmacist license;

(3) The pharmacist will supply any supporting documentation that the board may reasonably require; and

(4) The pharmacist agrees to continue to participate in continuing professional education as required by the board for the special volunteer pharmacist license.

(b) Any person engaged in the active practice of pharmacist care in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the pharmacist's office or the clinical setting.

~~(b)~~ (c) Any pharmacist who renders any pharmacist care to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer pharmacist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the pharmacist care at the clinic unless the act or omission was the result of the pharmacist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the pharmacist and the clinic pursuant to which the pharmacist provides voluntary uncompensated pharmacist care under the control of the clinic to patients of the clinic before the rendering of any services by the pharmacist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a pharmacist rendering voluntary pharmacist care at or for the clinic under a special volunteer pharmacist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section nine of this article and in the legislative rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer pharmacist license to any pharmacist whose license is or has been subject to any disciplinary action or to any pharmacist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a pharmacist license in inactive status in

lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a pharmacist license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any pharmacist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a pharmacist who holds a special volunteer pharmacist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-6a. Special volunteer registered professional nurse license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for registered professional nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer registered professional nurse license shall be issued by the West Virginia Board of Examiners for registered professional nurses to registered professional nurses licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the board's other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the registered professional nurse's acknowledgment that:

(1) The registered professional nurse's practice under the special volunteer registered professional nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The registered professional nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered under the special volunteer registered professional nurse license;

(3) The registered professional nurse will supply any supporting documentation that the board may reasonably require; and

(4) The registered professional nurse agrees to continue to participate in continuing education as required by the board for the special volunteer registered professional nurse license.

(b) Any person engaged in the active practice of nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the registered professional nurse or the clinical setting.

~~(b)~~ (c) Any registered professional nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer registered professional nurse license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the registered professional nurse's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the registered professional nurse and the clinic pursuant to which the registered professional nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the registered professional nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a registered professional nurse rendering voluntary nursing services at or for the clinic under a special volunteer registered professional nurse license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section six of this article and in the legislative rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer registered professional nurse license to any registered professional nurse whose license is or has been subject to any disciplinary action or to any registered professional nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a registered professional nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a registered professional nurse license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any registered professional nurse covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a registered professional nurse who holds a special volunteer registered professional nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

§30-7-6b. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for advanced practice registered nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the

care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer advanced practice registered nurse license shall be issued by the West Virginia Board of Examiners for Registered professional nurses to advanced practice registered nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the advanced practice registered nurse's acknowledgment that:

(1) The advanced practice registered nurse's practice pursuant to the special volunteer advanced practice registered nurses license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The advanced practice registered nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer advanced practice registered nurse license;

(3) The advanced practice registered nurse will supply any supporting documentation that the board may reasonably require; and

(4) The advanced practice registered nurse agrees to continue to participate in continuing education as required by the board for the special volunteer advanced practice registered nurse license.

(b) Any person licensed as an advanced practice registered nurse in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the advanced practice registered nurses or the clinical setting.

(c) A advanced practice registered nurse and his or her collaborating physician who render nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer advanced practice registered nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the advanced practice registered nurse's and his or her collaborating physician's gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the advanced practice registered nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the advanced practice registered nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed

liability for the negligent acts of a advanced practice registered nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer advanced practice registered nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer advanced practice registered nurse license to any advanced practice registered nurse whose license is or has been subject to any disciplinary action or to any advanced practice registered nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a advanced practice registered nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a advanced practice registered nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any advanced practice registered nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a advanced practice registered nurse who holds a special volunteer advanced practice registered nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 7A. LICENSED PRACTICAL NURSES.

§30-7A-6a. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for licensed practical nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer licensed provided by this section shall be issued by the West Virginia Board of Examiners for licensed practical nurses to licensed practical nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the licensed practical nurse's acknowledgment that:

(1) The licensed practical nurse's practice pursuant to the special volunteer licensed practical nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The licensed practical nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer licensed practical nurse license;

(3) The licensed practical nurse will supply any supporting documentation that the board may reasonably require; and

(4) The licensed practical nurse agrees to continue to participate in continuing education as required by the board for the special volunteer licensed practical nurse license.

(b) Any person engaged in the active practice of licensed practical nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the licensed practical nurse or the clinical setting.

(c) Any licensed practical nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the licensed practical nurse's gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the licensed practical nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the licensed practical nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (c) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a licensed practical nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer licensed practical nurse license to any licensed practical nurse whose license is or has been subject to any disciplinary action or to any licensed practical nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a

licensed practical nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a licensed practical nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any licensed practical nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a licensed practical nurse who holds a special volunteer licensed practical nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 8. OPTOMETRISTS.

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for optometrists who are retired or are retiring from the active practice of optometry and wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer license shall be issued by the board to optometrists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements.

(c) The board shall develop application forms for the special volunteer license provided in this section which shall contain the optometrist's acknowledgment that:

(1) The optometrist's practice under the special volunteer license will be exclusively devoted to providing optometrical care to needy and indigent persons in West Virginia;

(2) The optometrist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any optometrical services rendered under the special volunteer license;

(3) The optometrist will supply any supporting documentation that the board may reasonably require; and

(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer license.

(d) Any person engaged in the active practice of optometry in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the optometrist or the clinical setting.

~~(d)~~ (e) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (f) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer license under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

~~(f)~~ (g) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure in this article except the fee requirements.

~~(g)~~ (h) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any optometrist whose license is or has been subject to any disciplinary action or to any optometrist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.

~~(h)~~ (i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12b. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Osteopathic Medicine to physicians

licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that: (1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of osteopathy in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physician's office or the clinical setting.

~~(b)~~ (c) Any physician who renders any medical service to indigent and needy patients of clinics organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge shall not be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or who renders such services pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive

status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 16. CHIROPRACTORS.

§30-16-7a. Special volunteer chiropractor license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for chiropractors retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Chiropractic to chiropractors licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant's acknowledgment that:

(1) The applicant's practice pursuant to the special volunteer license will be exclusively devoted to providing chiropractic care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any chiropractic services rendered pursuant to the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer chiropractor's licenses.

(b) Any person engaged in the active practice of chiropractic in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the chiropractor's office or the clinical setting.

(c) Any chiropractor who renders any chiropractic service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer license authorized pursuant to subsection (a) of this section or an

arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the chiropractic service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the chiropractor. For the immunity pursuant to this subsection to apply, there must be a written agreement between the chiropractor and the clinic stating that the chiropractor will provide voluntary uncompensated chiropractic services under the control of the clinic to patients of the clinic before the rendering of any services by the chiropractor at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (c) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a chiropractor rendering voluntary chiropractic services at or for the clinic pursuant to a special volunteer license authorized pursuant to this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure for a chiropractor except the fee requirements.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any chiropractor whose license is or has been subject to any disciplinary action or to any chiropractor who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any chiropractor covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary there of the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a chiropractor who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-13. Special volunteer physical therapist license, physical therapist assistant license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for physical therapists or physical therapist assistants, as the case may be, retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Physical Therapy to physical therapists or physical therapist assistants licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the

remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant's acknowledgment that:

(1) The applicant's practice under the special volunteer license will be exclusively devoted to providing physical therapy care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any physical therapy services rendered under the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer physical therapists or physical therapist assistants license, as the case may be.

(b) Any person engaged in the active practice of physical therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physical therapist's office or the clinical setting.

~~(b)~~ (c) Any physical therapist or physical therapist assistant who renders any physical therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the physical therapy service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the physical therapist or physical therapist assistant. In order for the immunity under this subsection to apply, there must be a written agreement between the physical therapist or physical therapist assistant and the clinic stating that the physical therapist or physical therapist assistant will provide voluntary uncompensated physical therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the physical therapist or physical therapist assistant at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physical therapist or physical therapist assistant rendering voluntary physical therapy services at or for the clinic under a special volunteer license authorized under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure for a physical therapist or physical therapist assistant, as the case may be, except the fee requirements.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any physical therapist or physical therapist assistant whose license is or has been subject to any disciplinary action or to any physical therapist or physical therapist assistant who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physical therapist or physical therapist assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary thereof the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physical therapist or physical therapist assistant who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-17. Special volunteer psychologists license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer psychologists license for psychologists retired or retiring from the active practice of psychology who wish to donate their expertise for the psychological care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer psychologist license shall be issued by the West Virginia Board of Examiners of Psychologists to psychologists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the psychologist's acknowledgment that:

(1) The psychologist's practice under the special volunteer psychologists license will be exclusively devoted to providing psychological care to needy and indigent persons in West Virginia;

(2) The psychologist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement. for any psychological services rendered under the special volunteer psychological license;

(3) The psychologist will supply any supporting documentation that the board may reasonably require; and

(4) The psychologist agrees to continue to participate in continuing education as required by the board for a special volunteer psychologists license.

(b) Any person engaged in the active practice of psychology in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the psychologist's office or the clinical setting.

~~(b)~~ (c) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a psychologist rendering voluntary psychological services at or for the clinic under a special volunteer psychological license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section seven of this article and in the legislative rules promulgated thereunder, except the fee requirements of subsection (d) of that section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer psychologist license to any psychologist whose license is or has been subject to any disciplinary action or to any psychologist who has surrendered a psychologist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a psychologist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a psychologist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any psychologist covered under the provisions of this article, shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a psychologist who holds a special volunteer psychologist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.**§30-28-8a. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.**

(a) There is established a special volunteer occupational therapist license for occupational therapists retired or retiring from the active practice of occupational therapy who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer occupational therapist license shall be issued by the West Virginia Board of Occupational Therapy to occupational therapists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the occupational therapist's acknowledgment that:

(1) The occupational therapist's practice under the special volunteer occupational therapist license will be exclusively devoted to providing occupational therapy care to needy and indigent persons in West Virginia;

(2) The occupational therapist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any occupational therapy services rendered under the special volunteer occupational therapist license;

(3) The occupational therapist will supply any supporting documentation that the board may reasonably require; and

(4) The occupational therapist agrees to continue to participate in continuing education as required by the board for a special volunteer occupational therapists license.

(b) Any person engaged in the active practice of occupational therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the occupational therapist's office or the clinical setting.

~~(b)~~ (c) Any occupational therapist who renders any occupational therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer occupational therapist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the occupational therapy service at the clinic unless the act or omission was the result of the occupational therapist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the occupational therapist and the clinic pursuant to which the occupational therapist will provide voluntary uncompensated occupational therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the occupational

therapist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an occupational therapist rendering voluntary occupational therapy services at or for the clinic under a special volunteer occupational therapist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, excepting the fee requirements of subsection (a), section eleven of this article and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer occupational therapist license to any occupational therapist whose occupational therapist license is or has been subject to any disciplinary action or to any occupational therapist who has surrendered an occupational therapist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has elected to place an occupational therapist license in inactive status in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has been denied an occupational therapist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any occupational therapist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an occupational therapist who holds a special volunteer occupational therapist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.;

And,

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

Eng. Com. Sub. for Senate Bill 4—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-1-21; to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7A-6b; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing professionals to donate time to the care of indigent and needy; permitting persons who hold an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days; permitting specific professionals who are actively practicing and whose license is in good standing to donate their

expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient and providing that such services may be performed in either the professional's office or in the clinical setting; and providing for special volunteer license for licensed practical nurses and chiropractors.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 4) 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 4—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-1-21; to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7-6b; to amend said code by adding thereto a new section, designated §30-7A-6a; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing professionals to donate time to the care of indigent and needy; permitting persons who hold an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days; permitting specific professionals who are actively practicing and whose license is in good standing to donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient and providing that such services may be performed in either the professional's office or in the clinical setting; and providing for special volunteer license for advance practice registered nurses, licensed practical nurses and chiropractors.

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

Engrossed Committee Substitute for Senate Bill 4, 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, 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. 4) passed with its Senate amended title.

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

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

Eng. Com. Sub. for Senate Bill 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel.

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

Eng. Com. Sub. for Senate Bill 303, Supplemental appropriation of public moneys from Treasury to DHHR.

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 305, Supplemental appropriation of public moneys from Treasury to Fire Commission.

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 337, Hiring correctional officers without regard to placement on correctional officer register.

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 563, Relating to Consumer Credit and Protection Act.

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

Eng. Com. Sub. for House Bill 2018—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

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

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

House Concurrent Resolution 5, U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge.

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

House Concurrent Resolution 8, Dr. Roy and Marian Eshenaur Bridge.

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

House Concurrent Resolution 10, John Cameron Brown Bridge.

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

House Concurrent Resolution 24, SGT. Eugene E. Arbogast Memorial Bridge.

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

House Concurrent Resolution 27, U.S. Army 1LT Patricia Simon Bridge.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of 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 H. B. 2180), Authorizing the issuance of special "In God We Trust" motor vehicle registration plates.

(H. B. 2188), Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth.

(H. B. 2518), Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

(Com. Sub. for H. B. 2519), Medicaid program compact.

(Com. Sub. for H. B. 2586), Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board.

(H. B. 2653), Extending the Multi State Real-Time Tracking System.

(H. B. 2706), Authorizing legislative rules regarding higher education.

(H. B. 2796), Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services.

And,

(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.

Respectfully submitted,

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

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2002, Relating to parental notification of abortions performed on unemancipated minors.

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,

Tom Takubo,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

At the request of Senator Ferns, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2002) 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 2359, Relating to offenses and penalties for practicing osteopathic medicine without a license.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2359) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2620, West Virginia Drug Overdose Monitoring Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2620) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2648, Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor.

And has amended same.

And,

Eng. House Bill 2684, Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2648 and Eng. H. B. 2684) were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2674, Relating to access to and receipt of certain information regarding a protected person.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2674) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2675, Relating to primary elections and nominating procedures.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 2675) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 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.

With amendments from the Committee on Education pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2704) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 2711, Abolishing regional educational service agencies and providing for the transfer of property and records.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2711) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2781, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2781) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

The Senate proceeded to the sixth order of business.

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

Senate Concurrent Resolution 63—Requesting the Joint Committee on Government and Finance to study options for financing the continued construction and completion of the Coalfields Expressway.

Whereas, U. S. Route 121 is a proposed highway designated as the Coalfields Expressway, a four-lane highway stretching from Beckley, West Virginia, to Pound, Virginia, approximately sixty-two miles in length; and

Whereas, The West Virginia Department of Transportation officially requested designation of the Coalfields Expressway as U. S. 121 in May of 1998. It was intended to be constructed as a four-lane, partially-controlled access highway with at-grade intersections. It is also intended to be built to the same specifications as Corridor G, H and other Appalachian Development Highway System highways; and

Whereas, Construction started in 1999 with a three-level diamond interchange near Welch in western West Virginia. This was intended to facilitate traffic going between the King Coal Highway/Interstate 73/Interstate 74 and the Coalfields Expressway (U. S. 121); and

Whereas, Grading work was completed in 2003 but the interchange remains incomplete as of 2017; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to study options for financing the continued construction and completion of the Coalfields Expressway; and, be it

Further Resolved, That study include potential financing options available to complete construction of U. S. 121, including, but not limited to, through the issuance of special obligation notes, by securing federal matching funds, and through the addition of automated toll booths; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, in 2018, on its findings, conclusions and recommendations, together with any drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That input shall be sought from appropriate state and local agencies and organizations, including the Department of Transportation; and, be it

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

Which, under the rules, lies over one day.

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

The Senate again proceeded to the sixth order of business.

Senators Woelfel, Plymale, Stollings, Unger and Beach offered the following resolution:

Senate Resolution 71—Congratulating the St. Joseph's Central High School Irish girls' basketball team for winning the 2017 Class A state basketball championship.

Whereas, The 2016-2017 St. Joseph's Irish girls' basketball team had a dominant year on the court, finishing the season with a state championship and winning its eighth championship in nine years; and

Whereas, St. Joseph's Irish girls' basketball team roster consists of players: Tyesha Taylor, Kendra Ziegler, Haylee Hunter, Alexis Hall, Essence Sims, Paige Shy, Dena Jarrells, Errin Kay, Bailee Adkins and Abby Lee; and

Whereas, The St. Joseph's Irish girls' basketball team is led by head coach Shannon Lewis, and assistant coach David Jenkins; and

Whereas, The 2016-2017 St. Joseph's Irish girls' basketball team will be recognized as one of the best girls' basketball teams ever assembled in the state of West Virginia; and

Whereas, St. Joseph's Irish girls' basketball team is a shining example to all West Virginians of what can be accomplished with dedication, commitment and teamwork; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the St. Joseph's Central High School Irish girls' basketball team for winning the 2017 Class A state basketball championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to St. Joseph's Central High School.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Woelfel regarding the adoption of Senate Resolution 71 were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, the remarks by Senator Plymale regarding the adoption of Senate Resolution 71 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 and resumed business under the sixth order.

Senators Woelfel, Plymale, Stollings, Unger and Beach offered the following resolution:

Senate Resolution 72—Congratulating the Huntington High School Highlanders girls' basketball team for winning the 2017 Class AAA state basketball championship.

Whereas, The 2016-2017 Huntington Highlanders girls' basketball team has demonstrated athletic excellence on the court with a season record of 25-3 and by winning the state basketball championship; and

Whereas, The Huntington Highlanders girls' basketball team roster consists of players: Kearsta Turner, Alezha Turner, Tia Wooding, Mariah Harmon, Erin Crawford, Makenzie Grier, Alexia Sheffield, Shaunte Viars, Alyssa Mize, Haley Early, Madison Slash, Jordyn Dawson (*Player of the Year*), Jaylese Sims, Alayah Johnson, Kira Hayes and Alexyia Cooper; and

Whereas, The Huntington Highlander girls' team is led by head coach Lonnie Lucas, and assistant coaches Shawn Persinger and Olivia Chapman; and

Whereas, The Huntington Highlanders girls' basketball team maintained the state's number one ranking in The Associated Press poll from the start of January to the end of the season and lived up to its billing by beating the number two seed Buckhannon-Upsher 72-54 in the Class AAA state championship game; and

Whereas, The 2016-2017 Huntington Highlanders girls' basketball team will be recognized as one of the best girls' basketball teams ever assembled in the State of West Virginia; and

Whereas, The Huntington Highlanders girls' basketball team is a shining example to all West Virginians of what can be accomplished with dedication, commitment and teamwork; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Huntington High School Highlanders girls' basketball team for winning the 2017 Class AAA state basketball championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Huntington High School.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Woelfel regarding the adoption of Senate Resolution 72 were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, the remarks by Senator Plymale regarding the adoption of Senate Resolution 72 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 and resumed business under the sixth order.

Senators Woelfel, Plymale, Stollings, Unger and Beach offered the following resolution:

Senate Resolution 73—Congratulating the Huntington High School Highlanders boys' basketball team for winning the 2017 Class AAA state basketball championship.

Whereas, The 2016-2017 Huntington High School Highlanders boys' basketball team had an excellent year on the court, culminating in it winning a hard-earned Class AAA state championship; and

Whereas, The Huntington Highlanders boys' basketball team roster consists of players: Jadon Hayes, Jevon Powell, Tajhan Blackwell, Braxton Hardy, Andrew Shull, Grant Subik, Mason Moore, Mikal Dawson (*Tri-state Player of the Year*), Clinton Stevens, John Dawson, Dewey Brown and Darnelle Wright; and

Whereas, The Huntington Highlander boys' basketball team is led by head coach Ronald Hess (*Co-coach of the Year*), and assistant coaches Steven Freeman, Dustin Walls, Anthony Shackelford and Ty Holmes; and

Whereas, The Huntington Highlanders boys' basketball team is to be commended for its spirit and banding together as a team to achieve greatness in its sport upon winning the Class AAA state championship; and

Whereas, The 2016-2017 Huntington Highlanders boys' basketball team will be recognized as one of the best basketball teams ever assembled in the State of West Virginia; and

Whereas, The Huntington Highlanders boys' basketball team is a shining example to all West Virginians of what can be accomplished with dedication, commitment and teamwork; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Huntington High School Highlanders boys' basketball team for winning the 2017 Class AAA state basketball championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Huntington High School.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senators Woelfel and Hall regarding the adoption of Senate Resolution 73 were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, the remarks by Senator Plymale regarding the adoption of Senate Resolution 73 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 and resumed business under the sixth order, which agenda includes the making of main motions.

At the request of Senator Ferns, unanimous consent being granted, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 2711, Abolishing regional educational service agencies and providing for the transfer of property and records.

Having been reported from the Committee on Education, read a first time, ordered to second reading and, under the original double committee reference, referred to the Committee on Finance, with amendments from the Committee on Education pending, in earlier proceedings today.

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

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 61, Requesting study of economic, health and tourism impacts of biking, hiking and other forms of activity.

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

House Concurrent Resolution 15, Requesting Congress to fully support the National Park Service's recommendations to extend the Lewis and Clark National Historic Trail to include additional sites along the Expedition's Eastern Legacy.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 76, Expiring funds from Revenue Shortfall Reserve Fund to General Revenue.

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

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

Eng. Com. Sub. for House Bill 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs.

On third reading, 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, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Plymale and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2129) passed.

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

Eng. Com. Sub. for House Bill. 2129—A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of the Alcohol Beverage Control Administration to revoke, suspend or otherwise sanction a private club licensed to sell alcohol for failing to alert emergency medical services and law enforcement of a life-threatening medical emergency occurring on the licensee's premises; requiring private clubs licensed to sell alcohol to notify the Alcohol Beverage Control Administration of any life-threatening medical emergencies occurring on the licensee's premises within a week of the emergency's occurrence; and authorizing the Commissioner of the Alcohol Beverage Control Administration to revoke, suspend or otherwise sanction a licensee for failing to notify the Alcohol Beverage Control Administration of a life-threatening medical emergency that has taken place on the licensee's premises.

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

Eng. Com. Sub. for House Bill 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Plymale and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2195) passed with its title.

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

Eng. House Bill 2348, Eliminating any requirement that class hours of students be consecutive.

On third reading, 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, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Plymale and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2348) passed with its title.

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

Eng. Com. Sub. for House Bill 2402, Relating to abandoned antique vehicles.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Plymale and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2402) passed with its title.

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

Eng. Com. Sub. for House Bill 2494, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2494 pass?”

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. 2494) passed.

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

Eng. Com. Sub. for House Bill 2494—A Bill to amend and reenact §18-2E-4 of the Code of West Virginia, 1931, as amended, relating school, school district and statewide school report cards; modifying state board duties pertaining to the report cards; modifying information to be included in the school and school district report cards; removing requirement for school report cards to mailed directly to the parents; and requiring school and school district report cards be made easily accessible on, or through a report card icon or link on, the county board website and provided in paper form upon request of the parent, guardian or custodian.

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

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

On third reading, 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. 2503) passed with its title.

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

Eng. Com. Sub. for House Bill 2555, Relating to tax credits for apprenticeship training in construction trades.

On third reading, 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. 2555) passed.

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

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

Eng. Com. Sub. for House Bill 2555—A Bill to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to tax credits for apprenticeship training in construction trades; removing requirement that eligibility is limited to programs jointly administered by labor and management trustees; providing that the apprentice must be paid at least two dollars above the applicable minimum wage in order for a participating taxpayer to claim the credit; conforming provisions to current law; and requiring that taxpayers seeking to take advantage of the apprenticeship tax credit must perform an employment eligibility check through the E-verify system.

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

Eng. Com. Sub. for House Bill 2579, Increasing the penalties for transporting controlled substances.

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

On the passage of the bill, the yeas were: 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. 2579) passed.

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

Eng. Com. Sub. for House Bill 2579—A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to the offense of transporting illegal substances into the state generally; increasing penalties for illegal transportation of controlled substances into the state; clarifying that causing illegal transportation of controlled substances into the state is prohibited; treating marihuana as a Schedule IV controlled substance for penalty purposes; and creating enhanced criminal penalties for transporting certain controlled substances into the state based on quantity.

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

Eng. Com. Sub. for House Bill 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2585 pass?”

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. 2585) passed.

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

Eng. Com. Sub. for House Bill 2585—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all relating to laundering of proceeds from specified criminal activities generally; defining terms; creating misdemeanor and felony offenses of conducting financial transactions involving proceeds of criminal activity; distinguishing between offenses based on monetary value of transaction; providing for penalties; providing for seizure and forfeiture of property or monetary instruments; establishing the burden of proof in a forfeiture proceeding; authorizing sentencing court to order disgorgement at disposition; and clarifying conduct that constitutes separate offenses.

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

Eng. Com. Sub. for House Bill 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school.

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

On the passage of the bill, the yeas were: Azinger, 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. 2589) passed.

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

Eng. Com. Sub. for House Bill 2589—A Bill to amend and Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g; and to amend said Code by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-

5, §18-21A-6; and §18-21A-7, all relating to vocational education; requiring county boards to permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools; creating the Middle School Technical Education Program Act; setting forth findings and purpose; requiring participating middle schools to use existing resources to implement the pilot program; providing for instructor qualifications; allowing principals or vice-principals, on a voluntary basis, to participate as a guest instructor or speaker; requiring pilot program to be a one semester elective course except middle schools with alternative scheduling systems can adapt the program to meeting scheduling needs; requiring certain entities within fifty miles that receive state funding to provide speakers upon request; requiring guest speakers to be scheduled weekly to introduce students to a particular career and to prepare students to pursue the featured career by providing information on certain specified topics; allowing organization of field trips to introduce students to potential career paths; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of employment opportunities; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of educational opportunities; requiring as condition of successful course completion, students to outline his or her plan to become employable following high school or post-secondary school; requiring State Board of Education to establish guidelines for middle schools to submit a request for the schools admission; allowing state board to admit middle schools into the program; requiring admission on first come, first serve basis; declaring goal that a minimum of ten middle schools participate each year; allowing state board to solicit additional middle schools to participate under certain condition; prohibiting the state board from requiring participation; requiring students to receive a West Virginia STEP Certificate upon successful completion; and requiring annual report to the legislative oversight commission on education accountability.

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

Eng. Com. Sub. for House Bill 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.

On third reading, 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. 2603) passed with its title.

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

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

On third reading, 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. H. B. 2628) passed.

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

Eng. House Bill 2628—A Bill to amend and reenact §30-3-12 and §30-3-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-11 and §30-14-12a of said code, all relating generally to the regulation and licensing of medical professionals; modifying powers and duties of the Board of Medicine and the Board of Osteopathic Medicine with regard to evidence of serious misconduct of individuals subject to the boards' jurisdictions; authorizing the Board of Medicine to deny or refuse to reissue a license to any person convicted of a felony; authorizing the Board of Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; authorizing the Board of Medicine to revoke a license or other authorization to practice or prescribe or dispense controlled substances for any period of time, including for the life of the licensee; authorizing the Board of Osteopathic Medicine to refuse to issue a license, suspend or revoke a license, fine a licensee, or order restitution or rehabilitative action by a licensee for certain causes; requiring the Board of Osteopathic Medicine to revoke or refuse to reissue the license of a physician or physician's assistant convicted of a felony involving prescription drugs; authorizing the Board of Osteopathic Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; and requiring the Board of Medicine and the Board of Osteopathic Medicine to report certain credible information received to appropriate authorities.

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

Eng. Com. Sub. for House Bill 2631, Relating to time standards for disposition of complaint proceedings.

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

On the passage of the bill, the yeas were: Azinger, 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. 2631) passed.

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

Eng. House Bill 2631—A Bill to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating to time standards for disposition of complaint proceedings and tolling the time periods for delays attributable to the accused.

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

Eng. Com. Sub. for House Bill 2646, Terminating the Women’s Commission and discontinue its functions.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2646 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Ojeda, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—24.

The nays were: Beach, Jeffries, Miller, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—10.

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. 2646) passed.

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

Eng. Com. Sub. for House Bill 2646—A Bill to repeal §29-20-2, §29-20-3, §29-20-4, §29-20-5 and §29-20-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-20-1 of said code, relating to termination of the Women’s Commission; declaring Women’s Commission terminated and not in existence after June 30, 2018; directing commission to wind up affairs, arrange for disposition of funds, assets, equipment and records, and cease all activities before July 1, 2018; and repealing provisions of code related to Women’s Commission.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Cline and Rucker regarding the passage of Engrossed Committee Substitute for House Bill 2646 were ordered printed in the Appendix to the Journal.

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.

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

Pending discussion,

The question being "Shall Engrossed House Bill 2691 pass?"

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

The nays were: Romano—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2691) passed with its title.

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

Eng. Com. Sub. for House Bill 2702, Relating to excused absences for personal illness from school.

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

Pending discussion,

At the request of Senator Ferns, unanimous consent being granted, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

Eng. Com. Sub. for House Bill 2709, Authorizing the City of South Charleston to levy a special district excise tax.

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

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

The nays were: Cline, Karnes and Maynard—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2709) passed with its title.

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

Eng. Com. Sub. for House Bill 2771, Relating to temporary teaching certificates for Armed Forces spouses.

On third reading, 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. 2771) passed with its title.

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

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

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

On the passage of the bill, the yeas were: Azinger, 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)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2792) passed with its title.

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

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

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, 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)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2797) passed with its title.

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

Eng. Com. Sub. for House Bill 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

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

Senator Palumbo requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43.

The Chair replied that any impact on Senator Palumbo would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, 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)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2805) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, 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)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2805) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2815, Relating to higher education governance.

On third reading, 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, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Palumbo, Plymale,

Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—30.

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

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2815) passed.

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

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

Eng. Com. Sub. for House Bill 2815—A Bill to repeal §18B-1-5a and 18B-1-10 of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-3 of said code; to repeal §18B-1B-10 and §18B-1B-13 of said code; to repeal §18B-2-5 and §18B-2-7 of said code; to repeal §18B-5-2a of said code; to amend and reenact §18B-1-2 and §18B-1-6 of said code; to amend and reenact §18B-1B-1, §18B-1B-2, §18B-1B-4, and §18B-1B-6 of said code; to amend and reenact §18B-1D-2, §18B-1D-4, and §18B-1D-7 of said code; to amend said code by adding thereto a new section, designated §18B-1F-10; to amend and reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and reenact §18B-3-1 of said code; to amend and reenact §18B-4-7 of said code; to amend and reenact §18B-5-4, §18B-5-6, §18B-5-7, and §18B-5-9 of said code; to amend and reenact §18B-10-1, §18B-10-1c, §18B-10-8, and §18B-10-16 of said code; to amend and reenact §18B-19-1, §18B-19-3, §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-9, §18B-19-10, §18B-19-11, §18B-19-13, and §18B-19-14 of said code; and to amend said code by adding thereto a new section, designated §18B-19-19, all relating to public education higher education governance generally; defining terms; repealing obsolete provisions of code; clarifying scope of rule-making authority of higher education policy commission and certain institutions of higher education; eliminating outdated language; providing for rule-making procedures; requiring promulgation of rules by commission, council and certain institutions of higher education; providing for shorter time period for commission and council to review and comment on rules proposed by governing boards of institutions of higher education; providing legislative intent; providing for composition of commission; providing for primary responsibility of commission; updating and clarifying powers of commission; limiting authority of commission over certain institutions of higher education; eliminating authority of commission to assess institutions for payment of expenses of commission and for funding of statewide higher education services, obligations, or initiatives; clarifying authority of commission over review and approval of academic programs; repealing and eliminating outdated language; eliminating authority of commission with respect to certain financial and budget reviews and approvals; directing the commission to examine general revenue appropriations of higher education institutions and to report findings to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability with a recommendation to the Legislature on a formula for allocation of general revenue to be appropriated to the institutions; expanding authority of certain governing boards over appointment of president of certain higher education institutions; eliminating requirement for approval by commission of appointment of president for certain institutions of higher education; eliminating jurisdiction of commission relative to the accountability system over certain institutions of higher education; providing for updated responsibility of commission in development and advancement of public policy agenda and collection of data for certain

institutions of higher education; eliminating certain reporting responsibilities for certain institutions of higher education; altering authority of commission over institutional compacts of certain institutions of higher education; eliminating requirement for certain institutions of higher education to prepare an institutional compact for submission to the commission; eliminating application of certain data-based measures on certain institutions of higher education; altering timeframe for updates to institutional compacts; eliminating commission approval of institutional compacts of certain institutions of higher education; providing for a study by the West Virginia Development Office relating to foundations and private entities who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State of West Virginia; eliminating authority of chancellor over coordination of policies, purposes and rules of governing boards of certain institutions of higher education; updating powers of governing boards; eliminating requirement of commission approval of master plans for certain institutions of higher education; requiring certain institutions to provide copies of master plan to Legislative Oversight Commission on Educational Accountability; providing that rules of commission and council related to administering a system for the management of personnel matters do not apply to certain institutions of higher education; authorizing governing boards to contract and pay for any supplemental employee benefit; providing for legislative findings and purposes; clarifying authority of certain governing boards to delegate authority to its president; clarifying authority of commission and governing boards of certain institutions of higher education with respect to development of rules for accreditation and determination of minimum standards for conferring degrees; eliminating authority of commission to revoke an institution's authority to confer degrees when governing board or chief executive officer do not provide certain information to commission; eliminating applicability of certain commission and council rules on certain institutions of higher education; requiring certain governing boards to promulgate and adopt rules related to acquisitions and purchases; clarifying authority of certain governing boards over certain purchasing activities; authorizing prepayment by commission, council or governing boards in certain instance; expanding scope of authorized purchasers on certain purchase contracts; updating power of Joint Committee over performance audits of purchasing; updating authority of commission, council and governing boards over purchase card procedures; requiring certain governing boards to establish purchasing card procedures; clarifying authority for state institutions to enter into design-build contracts and other commonly accepted methods of procurement and financing for construction projects; providing that Design-Build Procurement Act does not apply to state institutions of higher education; providing authority to donate equipment, supplies and materials to not for profit entity to promote public welfare; updating certain best practices applicable to ensuring fiscal integrity of institutions of higher education; authorizing additional situation where emergency purchase card use is permitted; authorizing different tuition and fees for online courses; updating time frame for payment of fees by students; authorizing deposit of certain fees into single special revenue account by certain institutions; updating applicability of rule by commission and council for tuition and deferred payment plans; authorizing certain governing board to proposed a rule related to tuition and fee deferred payment plans; authorizing certain governing boards to authorize a mandatory auxiliary fee without commission approval; updating tuition and fee increase percentage that requires commission or council approval; updating conditions commission or council are required to consider in determining whether to approve a tuition or fee increase; revising requirements and parameters for certain revenue bonds issued by certain governing boards; updating approvals required for issuance of certain revenue bonds by state institutions of higher education; providing for transfer and deposit of certain fees by certain governing boards into single special revenue account; requiring commission and council to develop system capital development oversight policy and providing content for such policy; requiring each governing board to adopt a campus development plan; updating time frame for reporting to commission and council on campus development plans; eliminating requirement for commission approval of campus development plans of certain governing boards; providing for

content of campus development plans; eliminating commission approval over certain capital and maintenance project lists; authorizing certain governing boards to undertake projects not contained in campus development plan; eliminating certain commission approvals related to capital improvements for certain institutions; authorizing capital improvements to be funded through notes; updating conditions to be met for certain institutions to be responsible for capital project management; updating requirements for capital project management rule to be promulgated and adopted by certain governing boards; providing updated applicability and functions of higher education facilities information system; eliminating certain requirements related to leasing of real property by commission, council, and governing boards; requiring notice to certain local governmental entities and legislators for certain sales and leases of land; updating permitted uses of proceeds from sale, conveyance or other disposal of real property received by commission, council or a governing board; authorizing certain governing boards to enter into lease-purchase agreements in certain instances without commission approval; eliminating requirement of commission approval for certain real estate and construction transactions; providing for the approval by the Council for Community and Technical College Education of acquisitions, bequests, donations, construction of new buildings, repairs, renovations or lease payments over the lifetime of the lease which exceed \$1 million, if made or accepted by the institution's research corporation or an affiliated foundation; providing additional requirements for governing boards to enter into sale lease-back transactions; and requiring certain governing boards to provide certain information to commission.

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

Eng. House Bill 2833, Specifying the contents and categories of information for inclusion in annual reports.

On third reading, 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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Facemire and Miller—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2833) passed with its title.

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

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

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

On the passage of the bill, the yeas were: Azinger, 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. 2839) passed.

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

Eng. Com. Sub. for House Bill 2839—A Bill to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931, as amended, all relating to generally the West Virginia Performance Review Act; modifying the definition of the term “division”; modifying the timing and scope of department presentations; updating the schedules of department presentations, agency reviews and regulatory board reviews; eliminating the requirement that an agency review include an analysis of agency websites; and authorizing the Joint Standing Committee on Government Organization to request a review of any agency or program and to recommend or propose the consolidation, termination or reassignment of the agencies or programs reviewed.

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

Eng. House Bill 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency.

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

On the passage of the bill, the yeas were: 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. H. B. 2869) passed.

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

Eng. House Bill 2869—A Bill to repeal §15-5-15a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §15-5-15b, relating to certain state employees may be granted a leave of absence with pay while providing assistance as an essential member of an emergency aid provider during a declared state of emergency.

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

Eng. Com. Sub. for House Bill 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions.

On third reading, 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. 2897) passed.

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

Eng. Com. Sub. for House Bill 2897—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, to amend and reenact §8-16-5 of said code; to amend and reenact §16-12-11 of said code; to amend and reenact §16-13-3 of said code; to amend and reenact §16-13A-7 of said code; to amend and reenact §21-1D-5; and to amend and reenact §21-11-11 of said code, all relating generally to competitive bidding for public construction contracts; defining the term “alternates”; limiting the number of alternates that may be included on any solicitation of bids for government construction contracts; establishing procedures for acceptance of alternate bids and determination of the lowest qualified responsible bidder; providing procedures for the required submission of a list of subcontractors who will perform more than \$25,000 of work on certain projects; providing procedures for the required submission of a drug-free workplace affidavit for any solicitation for a public improvement contract; and providing procedures for the required submission of a contractor’s license number with certain bid documents; prohibiting public construction contracts from being awarded to bidders that are in default on monetary obligations owed to the state or a political subdivision; and exempting competitive bidding requirements on certain contracts for emergency repairs.

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

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

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

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

The nays were: Beach, Facemire, Miller and Romano—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2941) passed with its title.

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

Eng. Com. Sub. for House Bill 2961, Relating generally to charitable bingo games and charitable raffles.

On third reading, 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. 2961) passed.

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

Eng. Com. Sub. for House Bill 2961—A Bill to amend and reenact §47-20-23 and §47-20-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-21-21 and §47-21-30 of said code, all relating to creating a process by which parties may appeal certain administrative actions taken by the Tax Commissioner, affecting certain charitable bingo or charitable raffle licensees, to the Office of Tax Appeals.

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

Eng. House Bill 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors.

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

On the passage of the bill, the yeas were: 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. H. B. 2962) passed with its title.

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

Eng. House Bill 2967, Relating generally to administration of estates and trusts.

On third reading, 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. H. B. 2967) passed.

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

Eng. House Bill 2967—A Bill to amend and reenact §44-1-1, §44-1-6, §44-1-7, §44-1-8, §44-1-14a and §44-1-26 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-3 of said code; and to amend and reenact §44-5-3 of said code, all relating generally to administration of estates and trusts; waiving surety requirements for administrators of estates where grantee is sole beneficiary or sole distributee of the decedent; requiring county commission to hold hearing if application filed by interested party to compel nonresident executor otherwise exempt from bond requirements to post bond; requiring county commission to hold hearing if application filed by interested party to compel sole beneficiary to post surety; removing authority of clerk of county commission to require bond or surety from certain executors and administrators upon knowledge; making executor or administrator not required to post surety liable upon his or her own personal recognizance in the event of default, failure or misadministration; requiring interested parties objecting to the qualifications of a personal representative or venue to file notice with the county commission sixty days after the date of first publication; transferring to state Auditor duty to administer fiduciary supervisor qualifying test; requiring state Auditor provide annual training for fiduciary supervisors not licensed to practice law in this state; authorizing action against bond surety when execution on judgment or decree against personal representative is returned without being satisfied; and making technical corrections.

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

Eng. Com. Sub. for House Bill 2980 Relating to civil lawsuit filing fees for multiple defendant civil action.

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

Pending discussion,

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

Eng. House Bill 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, 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)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3022) passed.

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

Eng. House Bill 3022—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-12-15a; to amend said code by adding thereto a new section, designated §8-9-4; and to amend said code by adding thereto a new section, designated §30-1-5a, all relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations; requiring reporting when a county commission, or any of a county's boards, committees, or certain other county entities obtain certain information regarding misappropriation, fraud or violations of law; requiring reporting when a municipality, or any of a municipality's boards, committees, or certain other municipal entities obtain certain information regarding misappropriation, fraud or violations of law; requiring reporting when certain professional and occupational boards of the state obtain certain information regarding misappropriation, fraud or violations of law; and clarifying that the reporting requirements do not prevent, relieve or replace a report to law-enforcement where appropriate or warranted.

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

Eng. House Bill 3037, Removing the Division of Energy as an independent agency.

On third reading, 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3037) passed.

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

Eng. House Bill 3037—A Bill to amend and reenact §5B-2F-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5D-1-4 of said code, all relating to the Division of Energy generally; providing that the division be continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce; modifying requirements and duties; modifying composition of the West Virginia Public Energy Authority Board; and designating the Secretary of Commerce or his or her designee as the chair of the West Virginia Public Energy Authority Board.

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

Eng. Com. Sub. for House Bill 3048, Relating to collection of Tier II fees for chemical inventories.

On third reading, 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3048) passed.

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

Eng. Com. Sub. for House Bill 3048—A Bill to amend and reenact §15-5A-5 of the Code of West Virginia, 1931, as amended, relating to increasing the cap for Tier II fees for chemical inventories from a maximum of \$100 annually to \$2,500 annually.

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

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

On third reading, 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3053) passed with its title.

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

Eng. Com. Sub. for House Bill 3080, Requiring instruction in the Declaration of Independence and the United States Constitution.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 3080 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, 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)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3080) passed with its title.

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

The end of today’s third reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 2702, Relating to excused absences for personal illness from school.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was reported by the Clerk.

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

At the request of Senator Plymale, and by unanimous consent, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 2980 Relating to civil lawsuit filing fees for multiple defendant civil action.

Having been read a third time and laid over one day, retaining its place on the calendar, in earlier proceedings today.

At the request of Senator Plymale, and by unanimous consent, his request that the bill lie over one day, retaining its place on the calendar, was withdrawn.

The question now being on the passage of the bill.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2980 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, 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)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2980) passed.

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

Eng. Com. Sub. for House Bill 2980—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24d; and to amend and reenact §59-1-11 of said code, all relating to creating a special revenue account designated the State Police Forensic Laboratory Fund; providing for funding mechanisms; clarifying funding sources; establishing parameters for expenditures from the fund; vesting administration responsibility for the fund to the superintendent; relating to fees for services rendered by circuit clerks in certain civil actions; imposing additional fees in certain civil actions that include two or more named defendants, respondents or third-party defendants; setting that fee at \$15 per defendant; providing for distribution of the additional fees between the general fund of the county in which the office of the circuit clerk is located and the State Police Forensic Laboratory Fund; and excluding John or Jane Doe defendants from the per-defendant fee.

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

Without objection, the Senate returned to the third order of business.

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

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

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

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

On page one, by striking out all of section one-a;

On page four, section one-c, line fifty-three, after the word "Colonel" by inserting "\$66,000";

On page four, section one-c, lines fifty-four through seventy-five, by striking out the words: "and continuing thereafter, Natural Resources Police Officers shall be paid the minimum annual salaries based on the following schedule: *Provided*, That the director may increase the base pay for all ranks within the law-enforcement section:

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

<u>Natural Resources Police Officer (In 1-6 months)</u>	<u>\$33,994</u>
<u>Natural Resources Police Officer (After Academy Through First Year)</u>	<u>\$41,258</u>
<u>Natural Resources Police Officer Second Year</u>	<u>\$42,266</u>
<u>Natural Resources Police Officer Third Year</u>	<u>\$42,649</u>
<u>Senior Natural Resources Police Officer (4th - 5th Year)</u>	<u>\$43,048</u>
<u>Natural Resources Police Officer First Class (6th - 9th Year)</u>	<u>\$43,654</u>
<u>Corporal (10+ years)</u>	<u>\$44,260</u>
<u>Sergeant</u>	<u>\$48,561</u>
<u>First Sergeant</u>	<u>\$50,712</u>
<u>Lieutenant</u>	<u>\$55,013</u>
<u>Captain</u>	<u>\$57,164</u>
<u>Major</u>	<u>\$59,314</u>
<u>Lieutenant Colonel</u>	<u>\$61,465</u>
<u>Colonel</u>	<u>\$70,000</u>

Each Natural Resources Police Officer whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in subsection one-a of this article." and inserting in lieu thereof the following: the director may set additional annual compensation for Natural Resources Police Officers based on rank and length of service in addition to the minimum annual salaries provided in this section in an amount payable solely from the Law Enforcement

Program Fund and the Special Revenue License Fund. Each Natural Resource Police Office whose minimum salary is fixed and specified in the Annual Salary Schedule in this section is entitled to the length of service increases set forth in section one-a of this article.;

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

That §20-7-1c of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:;

And,

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

Eng. Senate Bill 493—A Bill to amend and reenact §20-7-1c of the Code of West Virginia, 1931, as amended, relating to compensation for Natural Resources Police Officers.

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

Engrossed Senate Bill 493, 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, 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: Maroney—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 493) passed with its House of Delegates amended title.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate recessed until 4 p.m. today.

Upon expiration of the recess, the Senate reconvened.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2366, Relating to selling Jackie Withrow Hospital.

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

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

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

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-25. Selling of state owned health care facilities.

(a) The Secretary of the Department of Health and Human Resources shall divest of the facilities; land; buildings and improvements; contents; employment, patient and contractual interests; licenses for staffed beds; and all other assets utilized in the current operation of the facility but excluding any cash, cash equivalents and marketable securities of the long-term care facility known as the Jackie Withrow Hospital.

(b) The secretary shall ensure that the patients are transferred to an area facility and shall minimize effects on long-term care facility residents, including any potential risk that could arise from relocating current residents and shall provide updates to the Joint Committee on Government and Finance and Legislative Oversight Commission on Health and Human Resources Accountability, pursuant to state law.

(c) The secretary shall ensure that a replacement facility of 90 beds be constructed to accommodate the needs of the patient population at Jackie Withrow to be operated as a geriatric psychiatric nursing home accepting, regardless of age, only individuals with high acuity needs to the residents of Jackie Withrow Hospital such as geri-psych, behavioral symptoms, Alzheimer's Disease, intellectual and developmental disabilities and patients with a criminal history that do not present a danger to the replacement facility's staff or other residents.

(d) The one hundred ten licensed beds of Jackie Withrow Hospital that are not staffed as the effective date of this section are deemed to be decertified and delicensed and may not be transferred or otherwise added to the licensed bed compliment of any health care facility.

(e) This section is not subject to the purchasing requirements of article three, chapter five-a of this code.

(f) Sales and transfers pursuant to this section are exempt from certificate of need requirements provided in article two-d, chapter sixteen of this code.

(g) Sales and transfers under this section are exempt from Medicaid rules and policies.

(h) The secretary, in consultation with the Director of the Division of Personnel, shall create a plan and coordinate with the secretary to create a strategy to minimize the effects on employees.

(i) The Department of Health and Human Resources, in consultation with the Division of Personnel, the Consolidated Public Retirement Board, and any other state agency as applicable, shall prepare a benefit package for employees of Jackie Withrow Hospital who are laid off, employed by a successor company or retire as a result of the divestment. Such benefits may include, but are not limited to, investment in retraining, placement on the Division of Personnel's reemployment list with preference, the purchase of actuarially sound years of service based on prior years of service with Jackie Withrow Hospital or its predecessors or any other benefits otherwise permitted under state law. The Division of Personnel, the Consolidated Public Retirement Board and any other necessary state agency shall cooperate and take any such action as necessary to implement such benefit package. Benefits packages as described in this subsection may be funded by the Jackie Withrow Long Term Care Facility Development Fund.

As used in this subsection “successor company” means any company who purchases any of the assets as described in subsection (a) of this section: *Provided*, That no provision of this subsection may be construed to require any further appropriation by the Legislature: *Provided, however*, That the Department of Health and Human Resources shall enter into a memoranda of understanding with the Division of Personnel, the Consolidated Public Retirement Board, and the Public Employees Insurance Agency prior to implementation of any benefit package with any employee which must state any cost to any affected retirement system and that this cost is to be paid by the Department of Health and Human Resources. No benefit package may be granted unless memoranda of understanding are filed with the Division of Personnel, the Consolidated Public Retirement Board, and the Public Employees Insurance Agency and the agreement of the Department of Health and Human Resources to pay the same by a date certain, or if there is no cost, the agreement of the parties to the same. Any benefit package granted without such memoranda of understanding is unlawful.

(j) The secretary shall prepare a complete accounting of all assets to the Joint Committee on Government and Finance.

(k) There is created in the state treasury a special revenue account to be known as the “Jackie Withrow Long Term Care Facility Development Fund”. The fund shall consist of appropriations to effectuate the purposes of this section and any revenue or sales proceeds derived from activities provided for in accordance with this section. Expenditures from the fund are 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.

(l) This section shall be construed broadly as to provide the secretary with the latitude to accomplish the goals of this section.

The bill (Eng. Com. Sub. for H. B. 2366), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2428, Establishing additional substance abuse treatment facilities.

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-53-1, §16-53-2 and §16-53-3, all to read as follows:

ARTICLE 53. ESTABLISHING ADDITIONAL SUBSTANCE ABUSE TREATMENT FACILITIES.

§16-53-1. Establishment of substance abuse treatment facilities.

(a) The Secretary of the Department of Health and Human Resources shall ensure that beds for purposes of providing substance abuse treatment services in existing or newly constructed facilities are made available in locations throughout the state which the Bureau for Behavioral

Health and Health Facilities determines to be the highest priority for serving the needs of the citizens of the state.

(b) The secretary shall identify and allocate the beds to privately owned facilities to provide substance abuse treatment services.

(c) These facilities shall:

(1) Give preference to West Virginia residents;

(2) Accept payment from private pay patients, third party payors or patients covered by Medicaid;

(3) Offer long term treatment, based upon need, of up to one year; and

(4) Work closely with the Adult Drug Court Program, provided for in article fifteen, chapter sixty-two of this code.

(d) Any facility subject to the provisions of this article must be licensed by this state to provide addiction and substance abuse services.

§16-53-2. Establishing the Ryan Brown Addiction Prevention and Recovery Fund.

The Ryan Brown Addiction Prevention and Recovery Fund is hereby created in the state treasury as a special revenue account. The fund shall be administered by the Secretary of the Department of Health and Human Resources and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all grants, bequests or transfers from any source, any moneys that may be appropriated and designated for those purposes by the Legislature and all interest or other return earned from investment of the fund, gifts, and all other sums available for deposit to the special revenue account from any source, public or private. 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 the fulfillment of the provisions set forth in article two, chapter eleven-b of this code. Upon the effective date of this section, the attorney general and any public official with custody or control of the proceeds recovered for the state pursuant to settlement agreement dated January 9, 2017, in that certain civil action then pending in Boone County, designated Civil Action No. 12-C-141, shall forthwith transfer, or cause the transfer, of those proceeds into the Ryan Brown Addiction Prevention and Recovery Fund in the manner directed by the state treasurer pursuant to articles one and two, chapter twelve of this code and all other applicable law.

§16-53-3. Rulemaking.

The Secretary of the West Virginia Department of Health and Human Resources shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to effectuate the provisions of this article.

The bill (Eng. Com. Sub. for H. B. 2428), as amended, was then ordered to third reading.

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.

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

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

Eng. Com. Sub. for House Bill 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund.

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

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

On page two, section five, line thirty-seven, by striking out "\$100" and inserting in lieu thereof "\$50";

And,

On page three, section five, line forty-five, by striking out "\$70" and inserting in lieu thereof "\$35".

The bill (Eng. Com. Sub. for H. B. 2522), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2561, Relating to public school support.

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

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

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

That §11-6A-5a of the Code of West Virginia, 1931, as amended, be repealed; that §11-8-6f and §11-8-12 of said code be amended and reenacted; that §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, §18-9A-10 and §18-9A-11 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-9A-25; that §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §18-9D-4d and §18-9D-22, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.

~~(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce a statewide aggregate assessment that would cause an increase of two percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately~~

~~for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than one hundred two percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five of this article for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred two percent: Provided, That the one hundred two percent figure shall be increased by the amount the boards of education's increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents per one hundred dollars of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.~~

~~An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section.~~

~~(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.~~

(a) Notwithstanding any other provision of code to the contrary, for the 2018 tax year and thereafter, the regular levy rates for county boards of education shall be the sum of the levy rates set forth in subdivisions (1), (2) and (3), section six-c of this article for each class of property, which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class II property, 45.9 cents per \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100: Provided, That, annually, county boards of education may decrease their regular levy rates to no lower than the following rates: (1) For Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per \$100; and (3) for Class III and Class IV property, 77.6 cents per \$100.

~~(e) (b) The State Tax Commissioner shall report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability by March 1 of each year on the progress of assessors in each county in assessing properties at the constitutionally required sixty percent of market value and the effects of increasing the limit on the increase in total property tax revenues set forth in this section to two percent.~~

~~(d) (c) *Growth County School Facilities Act. — Legislative findings. —*~~

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers and administrators; however, some counties of this state have experienced significant increases in enrollment due to significant growth in those counties; that

those counties experiencing significant increases do not have adequate facilities to accommodate students, teachers and administrators. Therefore, the Legislature finds that county boards of education in those high-growth counties should have the authority to designate revenues generated from the application of the regular school board levy due to new construction or improvements placed in a Growth County School Facilities Act Fund be used for school facilities in those counties to promote the best interests of this state's students.

(1) For the purposes of this subsection, "growth county" means any county that has experienced an increase in second month net enrollment of fifty or more during any three of the last five years, as determined by the State Department of Education.

(2) The provisions of this subsection shall only apply to any growth county, as defined in subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use the provisions of this subsection.

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The ~~statewide~~ regular school board levy rate ~~as established by the Legislature~~ shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth County School Facilities Act Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the School Building Authority or for the payment of bonded indebtedness incurred for school facilities. For any growth county choosing to use the provisions of this subsection, estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as local funds for purposes of the computation of local share under the provisions of section eleven, article nine-a, chapter eighteen of this code.

~~(e)~~ (d) This section, as amended during the legislative session in the year 2004, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

§11-8-12. Levy estimate by board of education; certification and publication.

(a) Each board of education shall, at the session provided for in section nine of this article, if the laying of a levy has been authorized by the voters of the district under article nine, chapter eighteen of this code, ascertain the condition of the fiscal affairs of the district, and make a statement setting forth:

(1) The amount due, and the amount that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness legally incurred upon a vote of the people, as provided by law, by any school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment, owing by such district;

(4) The amount to be levied for the permanent improvement fund;

(5) The total of all other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(6) The amount of such total to be raised by the levy of taxes for the current fiscal year;

(7) The proposed rate of levy in cents on each \$100 assessed valuation of each class of property;

(8) The separate and aggregate amounts of the assessed valuation of real, personal and public utility property within each class.

(b) The secretary of the board shall forward immediately a certified copy of the statement to the Auditor and shall publish the statement immediately. The session shall then stand adjourned until the third Tuesday in April, at which time it shall reconvene except where otherwise permitted by section nine of this article: *Provided*, That no provision of this section or section nine of this article may be construed to abrogate any requirement imposed on the board of education by article nine-b, chapter eighteen of this code.

(c) Notwithstanding any other provision of code to the contrary, for the 2018 tax year only, at the session that is reconvened on the third Tuesday in April, 2017, the county board may change its proposed regular levy rates from the original proposed levy rates that were included in the statement required by subsection (a) of this section. All other requirements pertaining to county boards of education establishing their regular levy rates continue to apply including the requirement for the State Auditor to approve the levy rate.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

For the purpose of this article:

(a) "State board" means the West Virginia Board of Education.

(b) "County board" or "board" means a county board of education.

(c) "Professional salaries" means the state legally mandated salaries of the professional educators as provided in article four, chapter eighteen-a of this code.

(d) "Professional educator" ~~shall be~~ is synonymous with and ~~shall have~~ has the same meaning as "teacher" as defined in section one, article one of this chapter and includes technology integration specialists.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance or psychologist duties.

(f) "Professional student support personnel" means a "teacher" as defined in section one, article one of this chapter who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. For all purposes except for the determination of the allowance for professional educators pursuant to section four of this article, professional student support personnel are professional educators.

(g) "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in section eight-a, article four, chapter eighteen-a of this code.

(h) "Service personnel" means all personnel as provided in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee ~~shall be~~ is counted as that number found by dividing his or her number of employment days in a fiscal year by two hundred: *Provided*, That the computation for any service person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter eighteen-a of this code ~~shall be~~ is calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs and grades one to twelve, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in regular secondary vocational programs existing as of the effective date of this section, subject to the following:

(A) Net enrollment includes no more than one thousand of those adults counted on the basis of full-time equivalency and apportioned annually to each county in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency; and

(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;

(2) Students enrolled in early childhood education programs as provided in section forty-four, article five of this chapter, counted on the basis of full-time equivalency;

(3) No pupil ~~shall~~ may be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than one thousand four hundred, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision by the difference between one thousand four hundred and the county's actual net enrollment;

(C) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than one thousand four hundred, the increase in net enrollment shall be reduced so that the total does not exceed one thousand four hundred; ~~and~~

~~(D) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions properly address the needs of counties with low enrollment and a sparse population density~~

(j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than ten.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is equal to or greater than ten but less than twenty.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of "net enrollment", to the square miles of the county is equal to or greater than twenty.

(n) "~~Levies~~ Maximum levies for general current expense purposes" means ninety percent of the maximum levy rate for county boards of education ~~calculated or set by the Legislature pursuant to section six-f, as derived from the sum of the levy rates in subdivisions (1), (2) and (3), section six-c,~~ article eight, chapter eleven of this code for each class of property.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid-eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution or other specific funding source not listed.

§18-9A-4. Foundation allowance for professional educators.

(a) The basic foundation allowance to the county for professional educators ~~shall be~~ is the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen-a of this code, ~~to the personnel employed,~~ subject to the following:

(1) ~~Subject to subdivision (2) of this subsection, in~~ In making this computation ~~on a~~ at county shall receive an allowance for ~~the personnel which number is in excess of professional educators~~ state aid-eligible professional educator positions to each one thousand students in net enrollment as follows:

(A) For each high-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ seventy-two and ~~one-tenth~~ three tenths professional educators per each one thousand students in net enrollment;

(B) For each medium-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ seventy-two and ~~twenty-five~~ forty-five one hundredths professional educators per each one thousand students in net enrollment;

(C) For each low-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ seventy-two and ~~four~~ six tenths professional educators per each one thousand students in net enrollment; ~~and~~

(D) For each sparse-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ seventy-two and ~~fifty-five~~ seventy-five one hundredths professional educators per each one thousand students in net enrollment; and

(E) For any professional educator positions, or fraction thereof, determined for a county pursuant to paragraphs (A), (B), (C) and (D) of this subdivision that exceed the number employed, the county's allowance for these positions shall be determined using the average state-funded salary of professional educators for the county;

~~(2) For the ratios applicable to each of the four density categories set forth in subdivision (1) of this subsection, the number of professional educators per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

~~(3) (2)~~ The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

~~(4) (3)~~ Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

~~(b) Subject to subsection (c) of this section each, Each county board shall establish and maintain a minimum ratio of professional instructional personnel per one thousand students in net enrollment state aid-funded professional educators as follows:~~

~~(1) For each high-density county, the minimum number ratio of professional instructional personnel per one thousand students in net enrollment is sixty-five and eight tenths state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-nine one hundredths percent;~~

~~(2) For each medium-density county, the minimum number ratio of professional instructional personnel per one thousand students in net enrollment is sixty-five and nine tenths state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-four one hundredths percent;~~

~~(3) For each low-density county, the minimum number ratio of professional instructional personnel per one thousand students in net enrollment is sixty-six state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and eighteen one hundredths percent;~~

~~(4) For each sparse-density county, the minimum number ratio of professional instructional personnel per one thousand students in net enrollment is sixty-six and five one hundredths state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and seven one hundredths percent; and~~

~~(5) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional instructional personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above stated minimum ratios.~~

~~(c) For the ratios applicable to each of the four density categories set forth in subsection (b) of this subsection, the number of professional instructional personnel per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

~~(d) (c) Any county board which does not establish and maintain the applicable minimum ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for professional educators under this section: *Provided*, That ~~no a county shall~~ may not be penalized if it has increases in enrollment during that school year: *Provided, however*, That for the school year ~~2008-2009, only, no county shall~~ 2017-2018, only, a county may not be penalized for not meeting the applicable minimum ratio required in subsection (b) of this section.~~

~~(e) No (d) A county shall may not increase the number of administrative personnel employed as either professional educators or pay grade H service personnel above the number which were employed, or for which positions were posted, on June 30, 1990, and therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts.~~

~~(f) As the number of professional educators per each one thousand students in net enrollment increases during fiscal years 2009 through 2013, any additional positions that are created as a result of that increase shall be positions that will enhance student achievement and are consistent with the needs as identified in each county board's electronic county strategic improvement plan.~~

~~County boards are encouraged to fill at least some of the additional positions with technology integration specialists.~~

~~(g) During the 2008-2009 interim period, and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the four density categories created in section two of this article, the ratios for professional educators established in this section and the ratios for service personnel established in section five of this article~~

§18-9A-5. Foundation allowance for service personnel.

The basic foundation allowance to the county for service personnel ~~shall be~~ is the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen-a of this code, ~~to such service personnel employed,~~ subject to the following:

(1) ~~For the school year beginning on July 1, 2008, and thereafter, no~~ A county shall receive an allowance for an amount in excess of state aid-eligible service personnel positions per one thousand students in net enrollment, as follows:

(A) ~~For each high-density county, the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-three and ninety-seven one hundredths service personnel per one thousand students in net enrollment;

(B) ~~For each medium-density county, the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-four and fifty-three one hundredths service personnel per one thousand students in net enrollment;

(C) ~~For each low-density county, the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-five and one tenth service personnel per one thousand students in net enrollment; ~~and~~

(D) ~~For each sparse-density county, the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-five and sixty-eight one hundredths service personnel per one thousand students in net enrollment; and

(E) For any service personnel positions, or fraction thereof, determined for a county pursuant to this subdivision that exceed the number employed, the county's allowance for these positions shall be determined using the average state-funded minimum salary of service personnel for the county;

(2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

~~(2)~~ (3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above stated limit.

§18-9A-6a. Teachers Retirement Fund allowance; unfunded liability allowance.

(a) The total Teachers Retirement Fund allowance ~~shall be~~ is the sum of the basic foundation allowance for professional educators, the basic foundation allowance for professional student support personnel and the basic foundation allowance for service personnel, as provided in sections four, ~~and five and eight~~ of this article; all salary equity appropriations authorized in section five, article four of chapter eighteen-a; and such amounts as are to be paid by the counties pursuant to sections five-a and five-b of said article to the extent such county salary supplements are equal to the amount distributed for salary equity among the counties, multiplied by ~~fifteen percent~~ the average retirement contribution rate for each county board. The average contribution rate for each county board is based on the required employer contributions for state aid-eligible employees participating in the retirement plans pursuant to articles seven-a and seven-b of this chapter.

(b) The Teachers Retirement Fund allowance amounts provided for in subsection (a) of this section shall be accumulated in the Employers Accumulation Fund of the state Teachers Retirement System pursuant to section eighteen, article seven-a of this chapter, and shall be in lieu of the contribution required of employers pursuant to subsection (b) of said section as to all personnel included in the allowance for state aid in accordance with sections four, ~~and five and eight~~ of this article.

(c) In addition to the Teachers Retirement Fund allowance provided for in subsection (a) of this section, there shall be an allowance for the reduction of any unfunded liability of the Teachers Retirement Fund in accordance with the following provisions of this subsection. On or before December 31, of each year, the actuary or actuarial firm employed in accordance with the provisions of section four, article ten-d, chapter five of this code shall submit a report to the President of the Senate and the Speaker of the House of Delegates which sets forth an actuarial valuation of the Teachers Retirement Fund as of the preceding ~~the thirtieth day of~~ June 30. Each annual report shall recommend the actuary's best estimate, at that time, of the funding necessary to both eliminate the unfunded liability over a forty-year period beginning on ~~the first day of July, one thousand nine hundred ninety four~~ July 1, 1994, and to meet the cash flow requirements of the fund in fulfilling its future anticipated obligations to its members. In determining the amount of funding required, the actuary shall take into consideration all funding otherwise available to the fund for that year from any source: *Provided*, That the appropriation and allocation to the Teachers Retirement Fund made pursuant to the provisions of section six-b of this article shall be included in the determination of the requisite funding amount. In any year in which the actuary determines that the Teachers Retirement Fund is not being funded in such a manner, the allowance made for the unfunded liability for the next fiscal year shall be not less than the amount of the actuary's best estimate of the amount necessary to conform to the funding requirements set forth in this subsection.

§18-9A-7. Foundation allowance for transportation cost.

(a) The allowance in the foundation school program for each county for transportation ~~shall be~~ is the sum of the following computations:

(1) A percentage of the transportation costs incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

(A) For each high-density county, eighty-seven and one-half percent;

(B) For each medium-density county, ninety percent;

(C) For each low-density county, ninety-two and one-half percent;

(D) For each sparse-density county, ninety-five percent;

(E) For any county for the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multicounty vocational center, the percentage provided in paragraphs (A) through (D), inclusive, of this subdivision as applicable for the county plus an additional ten percent; and

(F) For any county for that portion of its school bus system that uses as an alternative fuel compressed natural gas or propane, the percentage provided in paragraphs (A) through (D), inclusive, of this subdivision as applicable for the county plus an additional ten percent: *Provided*, That for any county receiving an additional ten percent for that portion of their bus system using bio-diesel as an alternative fuel during the school year 2012-2013, bio-diesel shall continue to qualify as an alternative fuel under this paragraph to the extent that the additional percentage applicable to that portion of the bus system using bio-diesel shall be decreased by two and one-half percent per year for four consecutive school years beginning in school year 2014-2015: *Provided, however*, That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

(2) The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation;

(3) An amount equal to eight and one-third percent of the current replacement value of the bus fleet within each county as determined by the state board. ~~*Provided*, That the amount for the school year beginning July 1, 2015, will be \$15,000,000 and the amount for the school year beginning July 1, 2016, will be \$18,000,000.~~ The amount shall only be used for the replacement of buses except as provided in subdivision (4) of this subsection. Buses purchased after July 1, 1999 that are driven one hundred eighty thousand miles, regardless of year model, ~~will be~~ are subject to the replacement value of eight and one-third percent as determined by the state board. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the state superintendent for funding for an additional bus or buses. The state superintendent shall make a decision regarding each application based upon an analysis of the individual school district's net enrollment history and transportation needs: *Provided*, That the superintendent ~~shall~~ may not consider any application which fails to document that the county has applied for federal funding for additional buses. If the state superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year;

(4) Notwithstanding the restriction on the use of funds for the replacement of buses pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year may be used by a county for school facility and equipment repair, maintenance and improvement or replacement or other current expense priorities if a request by the county superintendent listing the amount, the intended use of the funds and the serviceability of the bus fleet is approved by the state superintendent. Before approving the request, the state superintendent shall verify the serviceability of the county's bus fleet based upon the state school bus inspection defect rate of the county over the two prior years; and

~~(4)~~ (5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county.

(b) The total state share for this purpose is the sum of the county shares: *Provided*, That ~~no~~ a county ~~shall~~ may not receive an allowance which is greater than one-third above the computed state average allowance per transportation mile multiplied by the total transportation mileage in the county exclusive of the allowance for the purchase of additional buses.

(c) One half of one percent of the transportation allowance distributed to each county ~~shall be~~ is for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity. Any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year. The state board may request a county to document the use of funds for trips related to academic classroom curriculum if the board determines that it is necessary.

§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.

The total allowance for other current expense and substitute employees ~~shall be~~ is the sum of the following:

~~(1) For current expense, ten percent of the sum of the computed state allocation for professional educators, professional student support personnel and service personnel as determined in sections four, five and eight of this article. Distribution to the counties shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment; plus~~

(1) For current expense:

(A) The nonsalary-related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

(B) The total square footage of school buildings in each county divided by each county's net enrollment for school aid purposes is used to calculate a state average square footage per student;

(C) Each county's net enrollment for school aid purposes multiplied by the state average expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this subdivision and multiplied by the state average square footage per student as calculated in paragraph (B) of this subdivision is that county's state average costs per square footage per student for operations and maintenance;

(D) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the allowance for current expense may be prorated among the participating counties by adjusting the net enrollment for school aid purposes utilized in the calculation by the number of students enrolled therein for each county; and

(E) Each county's allowance for current expense is 70.25 percent of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision; plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in sections four and eight of this article. Distribution to the counties ~~shall be~~ is made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with sections four and eight of this article; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties ~~shall be~~ is made proportional to the number of service personnel authorized for the county in compliance with said section; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution ~~shall be~~ is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 per professional instructional personnel employed at the school. "Faculty senate" means a faculty senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds ~~shall be~~ are made at the school level by the faculty senate in accordance with the provisions of said section and ~~shall~~ may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

§18-9A-10. Foundation allowance to improve instructional programs and instructional technology.

(a) The total allowance to improve instructional programs ~~shall be~~ and instructional technology is the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to ten percent of the portion of the increase in the local share amount for the next school year that is due to an increase in assessed values only above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be ~~distributed~~ allocated to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by ~~provision of~~ this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by section five, article two-e of this chapter and approved by the state board. ~~Provided, That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section also~~

~~may be used in the implementation and maintenance of the uniform integrated regional computer information system.~~

Up to ~~twenty-five~~ fifty percent of this allocation for the improvement of instructional programs may be used to employ professional educators and service personnel in ~~counties after all applicable provisions of sections four and five of this article have been fully utilized~~ the county. Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the Regional ~~educational~~ Education Service Agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1, the state superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy.

~~The provisions relating to the use of any funds from this subdivision for personnel costs are subject to the following: (1) The funds available for personnel under this subsection subdivision may not be used to increase the total number of professional noninstructional personnel in the central office beyond four. and (2) For the school year beginning July 1, 2013, and thereafter, any funds available to a county for use for personnel under this subsection above the amount available for the 2012-2013 school year, only may be used for technology systems specialists until the state superintendent determines that the county has sufficient technology systems specialists to serve the needs of the county.~~

The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology, an amount equal to twenty percent of the portion of the increase in the local share amount for the next school year that is due to an increase in assessed values only above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be ~~distributed~~ allocated to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

~~Effective July 1, 2014, Moneys allocated by provision of this subdivision shall be used to improve instructional technology programs according to the county and school strategic improvement plans~~ board's strategic technology learning plan. plus

This allocation for the improvement of instructional technology programs may also be used for the employment of technology system specialists essential for the technology systems of the

schools of the county to be fully functional and readily available when needed by classroom teachers. The amount of this allocation used for the employment of technology system specialists shall be included and justified in the county board's strategic technology learning plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid by the West Virginia Department of Education in accordance with the expenditure schedule approved by the state budget office into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and (2), subsection (a) of this section, a county board may:

(1) Utilize up to twenty-five percent of the allocation for the improvement of instructional programs in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county and school strategic improvement plans or amendments thereto; and

(2) Utilize up to fifty percent of the allocation for improving instructional technology in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county board's strategic technology learning plan or amendments thereto.

~~(b)~~ (c) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount equal to \$24 million from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

~~(e)~~ (d) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

§18-9A-11. Computation of local share; appraisal and assessment of property; valuations for tax increment financing purposes; computations in growth counties; public library support.

(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven

of this code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each county assessor pursuant to articles one-c and three of said chapter, the state board shall for each county compute by application of the maximum levies for general current expense purposes, as defined in section two of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value of each of the several classes of property contained in the report or revised report of the value made to it by the Tax Commissioner as follows:

~~(1) For each fiscal year beginning before July 1, 2014, the state board shall first take ninety-five percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county. For each fiscal year beginning after June 30, 2014, the~~ The state board shall first take ninety-six percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county; and

~~(2) For each fiscal year beginning before July 1, 2014, the state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the Tax Commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. For each fiscal year beginning after June 30, 2014, the~~ The state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the Tax Commissioner and shall deduct therefrom four percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added to the ~~ninety-five or ninety-six percent as applicable,~~ of public utility taxes computed as provided in subdivision (1) of this subsection and this total shall be further reduced by the amount due each county assessor's office pursuant to section eight, article one-c, chapter eleven of this code and this amount shall be the local share of the particular county.

As to any estimations or preliminary computations of local share required prior to the report to the Legislature by the Tax Commissioner, the state shall use the most recent projections or estimations that may be available from the Tax Department for that purpose.

(b) It is the intent of the Legislature that the computation of local share for public school support continue to be based upon actual real property values rather than assumed assessed real property values that are based upon an assessment ratio study, and that the annual amount of local share for which a county board of education is responsible continue to be computed without reference to whether the real property assessments in that county were at least fifty-four percent of market value in the prior year as indicated by the assessment ratio study. Accordingly, the effective date of the operation of this section as amended and reenacted during 2014, and the effective date of the operation of the repeal of section two-a of this article and the operation of the repeal of section five-b, article one-c, chapter eleven of this code, all as provided under this enactment, are expressly made retrospective to June 30, 2013.

(c) Whenever in any year a county assessor or a county commission fails or refuses to comply with this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the State Tax Commissioner shall review the valuations for assessment purposes made by the county assessor and the county commission and shall direct the county assessor and the county commission to make corrections in the valuations as necessary so that they comply with the requirements of chapter eleven of this code and this section and the Tax Commissioner may enter the county and fix the assessments at the required

ratios. Refusal of the assessor or the county commission to make the corrections constitutes grounds for removal from office.

(d) For the purposes of any computation made in accordance with this section, in any taxing unit in which tax increment financing is in effect pursuant to article eleven-b, chapter seven of this code, the assessed value of a related private project shall be the base-assessed value as defined in section two of said article.

(e) For purposes of any computation made in accordance with this section, in any county where the county board of education has adopted a resolution choosing to use the Growth County School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated school board revenues generated from application of the regular school board levy rate to new property values, as that term is designated in said section, may not be considered local share funds and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a) of this section are made.

(f) The Legislature finds that public school systems throughout the state provide support in varying degrees to public libraries through a variety of means including budgeted allocations, excess levy funds and portions of their regular school board levies. A number of public libraries are situated on the campuses of public schools and several are within public school buildings serving both the students and public patrons. To the extent that public schools recognize and choose to avail the resources of public libraries toward developing within their students such legally recognized elements of a thorough and efficient education as literacy, interests in literature, knowledge of government and the world around them and preparation for advanced academic training, work and citizenship, public libraries serve a legitimate school purpose and may do so economically. Therefore, county boards are encouraged to support public libraries within their counties.

§18-9A-25. Effective date of changes during 2017 regular session of the Legislature.

The amendments to sections two, four, five, six-a, seven, nine, ten and eleven of this article during the 2017 regular session of the Legislature shall be effective for the calculations and distribution of state aid for the 2018 fiscal year and thereafter; and the provisions in place before those amendments are only effective for the calculations and distribution of state aid prior to the 2018 fiscal year.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

For the purposes of this article, unless a different meaning clearly appears from the context:

(1) "Authority" means the School Building Authority of West Virginia;

(2) "Bonds" means bonds issued by the authority pursuant to this article;

(3) "Construction project" means a project in the furtherance of a facilities plan with a cost greater than \$1 million for the new construction, expansion or major renovation of facilities, buildings and structures for school purposes, including:

(A) The acquisition of land for current or future use in connection with the construction project;

(B) New or substantial upgrading of existing equipment, machinery and furnishings;

(C) Installation of utilities and other similar items related to making the construction project operational.

(D) Construction project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project;

(4) "Cost of project" means the cost of construction, expansion, renovation, repair and safety upgrading of facilities, buildings and structures for school purposes; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items related to making the project operational; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing, including the cost of administration of this article;

(5) "County board" or "county" means a county board of education as provided in article five of this chapter and includes the West Virginia Schools for the Deaf and the Blind as provided in article seventeen of this chapter when acting with the approval of the West Virginia Board of Education to submit, request and receive an award of funds or services for projects under the provisions of this article.

~~(5)~~ (6) "Facilities plan" means the ten-year countywide comprehensive educational facilities plan established by a county board in accordance with guidelines adopted by the authority to meet the goals and objectives of this article, or a facilities plan established by the administration of the West Virginia Schools for the Deaf and Blind that:

(A) Addresses the existing school facilities and facility needs of the county, or the Schools for the Deaf and Blind, to provide a thorough and efficient education in accordance with the provisions of this code and policies of the state board;

(B) Best serves the needs of individual students, the general school population and the communities served by the facilities, including, but not limited to, providing for a facility infrastructure that avoids excessive school bus transportation times for students consistent with sound educational policy and within the budgetary constraints for staffing and operating the schools of the county;

(C) Includes the school major improvement plan;

(D) Includes the county board's school access safety plan required by section three, article nine-f of this chapter;

(E) Is updated annually to reflect projects completed, current enrollment projections and new or continuing needs; and

(F) Is approved by the state board and the authority prior to the distribution of state funds pursuant to this article to any county board or other entity applying for funds;

~~(6)~~ (7) "Project" means a construction project or a major improvement project;

~~(7)~~ (8) "Region" means the area encompassed within and serviced by a regional educational service agency established pursuant to section twenty-six, article two of this chapter;

~~(8)~~ (9) "Revenue" or "revenues" means moneys:

(A) Deposited in the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code;

(C) Deposited in the School Building Debt Service Fund pursuant to section eighteen, article twenty-two, chapter twenty-nine of this code;

(D) Deposited in the School Major Improvement Fund pursuant to section thirty, article fifteen, chapter eleven of this code;

(E) Received, directly or indirectly, from any source for use in any project completed pursuant to this article;

(F) Received by the authority for the purposes of this article; and

(G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code;-

~~(9)~~ (10) "School major improvement plan" means a ten-year school maintenance plan that:

(A) Is prepared by a county board in accordance with the guidelines established by the authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is prepared by the state board or the administrative council of an area vocational educational center in accordance with the guidelines if the entities seek funding from the authority for a major improvement project, or is prepared by the administration of the West Virginia Schools for the Deaf and Blind;

(B) Addresses the regularly scheduled maintenance for all school facilities of the county or under the jurisdiction of the entity seeking funding;

(C) Includes a projected repair and replacement schedule for all school facilities of the county or of the entity seeking funding;

(D) Addresses the major improvement needs of each school within the county or under the jurisdiction of the entity seeking funding; and

(E) Is required prior to the distribution of state funds for a major improvement project pursuant to this article to the county board, state board or administrative council; and

~~(10)~~ (11) "School major improvement project" means a project with a cost greater than \$50 thousand and less than \$1 million for the renovation, expansion, repair and safety upgrading of existing school facilities, buildings and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation,

repair or upgrading in the furtherance of a school major improvement plan. A major improvement project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; or other items which are customarily considered to result in a current or ordinary course of business operating charge-;

(12) "Schools for the Deaf and Blind" or "West Virginia Schools for the Deaf and Blind" means the Schools for the Deaf and Blind established or continued under article seventeen of this chapter.

§18-9D-3. Powers of authority.

The School Building Authority has the power:

(1) To sue and be sued, plead and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of real and personal property for its corporate purposes;

(5) To make bylaws for the management and rule of its affairs;

(6) To appoint, contract with and employ attorneys, bond counsel, accountants, construction and financial experts, underwriters, financial advisers, trustees, managers, officers and such other employees and agents as may be necessary in the judgment of the authority and to fix their compensation: *Provided*, That contracts entered into by the School Building Authority in connection with the issuance of bonds under this article to provide professional and technical services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee, bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject to the provisions of article three, chapter five-a of this code: *Provided, however*, That notwithstanding any other provisions of this code, any authority of the Attorney General of this state relating to the review of contracts and other documents to effectuate the issuance of bonds under this article shall be exclusively limited to the form of the contract and document: *Provided further*, That the Attorney General of this state shall complete all reviews of contracts and documents relating to the issuance of bonds under this article within ten calendar days of receipt of the contract and document for review;

(7) To make contracts and to execute all instruments necessary or convenient to effectuate the intent of and to exercise the powers granted to it by this article;

(8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(9) To acquire by purchase, eminent domain or otherwise all real property or interests in the property necessary or convenient to accomplish the purposes of this article;

(10) To require proper maintenance and insurance of any project authorized under this section, including flood insurance for any facility within the one hundred year flood plain, at which authority funds are expended;

(11) To charge rent for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

(12) To assist the West Virginia Schools for the Deaf and Blind or any county board of education that chooses to acquire land, buildings and capital improvements to existing school buildings and property for use as public school facilities, by lease from a private or public lessor for a term not to exceed twenty-five years with an option to purchase pursuant to an investment contract with the lessor on such terms and conditions as may be determined to be in the best interests of the authority, the State Board of Education and, if applicable, the county board of education, consistent with the purposes of this article, by transferring funds to the State Board of Education as provided in subsection (d), section fifteen of this article for the use of the county board of education;

(13) To accept and expend any gift, grant, contribution, bequest or endowment of money and equipment to, or for the benefit of, the authority or any project under this article, from the State of West Virginia or any other source for any or all of the purposes specified in this article or for any one or more of such purposes as may be specified in connection with the gift, grant, contribution, bequest or endowment;

(14) To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

(15) To contract for architectural, engineering or other professional services considered necessary or economical by the authority to provide consultative or other services to the authority or to any regional educational service agency, the West Virginia Schools for the Deaf and Blind or any county board requesting professional services offered by the authority, to evaluate any facilities plan or any project encompassed in the plan, to inspect existing facilities or any project that has received or may receive funding from the authority or to perform any other service considered by the authority to be necessary or economical. Assistance to the region, school or district may include the development of preapproved systems, plans, designs, models or documents; advice or oversight on any plan or project; or any other service that may be efficiently provided by the authority to regional educational service agencies, the state board, or county boards ~~by the authority or the West Virginia Schools for the Deaf and Blind;~~

(16) To provide funds on an emergency basis to repair or replace property damaged by fire, flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in accordance with guidelines of the School Building Authority;

(17) To transfer moneys to custodial accounts maintained by the School Building Authority with a state financial institution from the school construction fund and the school improvement fund created in the State Treasury pursuant to the provisions of section six of this article, as necessary to the performance of any contracts executed by the School Building Authority in accordance with the provisions of this article;

(18) To enter into agreements with county boards and persons, firms or corporations to facilitate the development of ~~county board~~ projects and ~~county board~~ facilities plans. The county board participating in an agreement shall pay at least twenty-five percent of the cost of the agreement. Nothing in this section ~~shall be construed to supersede, limit or impair~~ supersedes, limits or impairs the authority of county boards to develop and prepare their projects or plans;

(19) To encourage any project or part thereof to provide opportunities for students to participate in supervised, unpaid work-based learning experiences related to the student's program of study approved by the county board or the administration of the West Virginia Schools for the Deaf and Blind. The work-based learning experience ~~must~~ shall be conducted in accordance with a formal training plan approved by the instructor, the employer and the student, ~~and which sets~~ The experience shall set forth at a minimum the specific skills to be learned, the required documentation of work-based learning experiences, the conditions of the placement, including duration and safety provisions, and provisions for supervision and liability insurance coverage as applicable. Projects involving the new construction and renovation of vocational-technical and adult education facilities should provide opportunities for students to participate in supervised work-based learning experiences, to the extent practical, which meet the requirements of this subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship programs or the provisions governing those programs; and

(20) To do all things necessary or convenient to carry out the powers given in this article.

§18-9D-4c. School Building Authority authorized to temporarily finance projects through the issuance of loans, notes or other evidences of indebtedness.

The School Building Authority may by resolution, in accordance with the provisions of this article, temporarily finance the cost of projects and other expenditures permitted under this article for public schools in this state, including, but not limited to, comprehensive high schools, ~~and comprehensive middle schools as defined in this article, in this state through the issuance of~~ and the West Virginia Schools for the Deaf and Blind. The financing may be issued through loans, notes or other evidences of indebtedness, ~~Provided, That~~ the outstanding principal amount of ~~loans, notes or other evidences of indebtedness outstanding at any one time shall~~ which may not exceed \$16 million at any one time. ~~Provided, however, That~~ The principal of, interest and premium ~~if any on, and fees associated with any such temporary financing shall be payable solely from the proceeds of bonds or the sources from which the principal of, interest and premium, if any, on bonds is~~ any bonds are payable under this article. ~~or from the proceeds of bonds~~

§18-9D-4d. Emergency facility and equipment repair or replacement fund for financially distressed counties.

From the funds available to it the School Building Authority shall maintain a reserve fund in the amount of not less than \$600,000 for the purpose of making emergency grants to financially distressed county boards to assist them in making repairs or performing urgent maintenance to facilities or facility related equipment or facility related equipment replacement necessary to maintain the serviceability or structural integrity of school facilities currently in use or necessary for educating the students of the county. The grants shall be made in accordance with guideline established by the school building authority. For the purposes of this section, "financially distressed county" means a county either in deficit or on the most recently established watch list established by the Department of Education of those counties at-risk of becoming in deficit.

§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.

(a) The authority shall establish guidelines and procedures to promote the intent and purposes of this article and assure the prudent and resourceful expenditure of state funds for projects under this article including, but not limited to, the following:

(1) Guidelines and procedures for the facilities plans, school major improvement plans and projects submitted in the furtherance of the plans that address, but are not limited to, the following:

(A) All of the elements of the respective plans as defined in section two of this article;

(B) The procedures for a county or the administration of the West Virginia Schools for the Deaf and Blind to submit a preliminary plan, a plan outline or a proposal for a plan to the authority prior to the submission of the facilities plan. The preliminary plan, plan outline or proposal for a plan shall be the basis for a consultation meeting between representatives of the county or the administration of the West Virginia Schools for the Deaf and Blind and members of the authority, including at least one citizen member. ~~which~~ The meeting shall be held promptly following submission of the preliminary plan, plan outline or proposal for a plan to assure understanding of the general goals of this article and the objective criteria by which projects will be evaluated, to discuss ways the plan may be structured to meet those goals, and to assure efficiency and productivity in the project approval process;

(C) The manner, time line and process for the submission of each plan and annual plan updates to the authority;

(D) The requirements for public hearings, comments or other means of providing broad-based input on plans and projects under this article within a reasonable time period as the authority may consider appropriate. The submission of each plan must be accompanied by a synopsis of all comments received and a formal comment by the county board, the state board or the administrative council of an area vocational educational center submitting the plan;

(E) Any project specifications and maintenance specifications considered appropriate by the authority including, but not limited to, such matters as energy efficiency, preferred siting, construction materials, maintenance plan and any other matter related to how the project is to proceed;

(F) A prioritization by the county board, the state board or the administrative council submitting the plan of each project contained in the plan. ~~In prioritizing the projects, the county board, the state board or the administrative council submitting the plan shall make determinations~~ The prioritization shall be determined in accordance with the objective criteria formulated by the School Building Authority in accordance with this section. The priority list is one of the criteria that shall be considered by the authority in deciding how the available funds should be expended;

(G) The objective means to be set forth in the plan and used in evaluating implementation of the overall plan and each project included in the plan. The evaluation ~~must~~ shall measure how the plan addresses the goals of this article and any guidelines adopted under this article, ~~and~~ how each project is in furtherance of the facilities plan and school major improvement plan, as

applicable, ~~as well as~~ the importance of the project to the overall success of the facilities plan or school major improvement plan, and the overall goals of the authority; and

(H) Any other matters considered by the authority to be important reflections of how a construction project or a major improvement project ~~or projects~~ will further the overall goals of this article.

(2) Guidelines and procedures which may be adopted by the authority for requiring that a county board modify, update, supplement or otherwise submit changes or additions to an approved facilities plan or for requiring that a county board, the state board or the administrative council of an area vocational educational center modify, update, supplement or otherwise submit changes or additions to an approved school major improvement plan. The authority shall provide reasonable notification and sufficient time for the change or addition as delineated in its guidelines. ~~developed by the authority~~ The guidelines shall require an update of the estimated duration of school bus transportation times for students associated with any construction project under consideration by the authority that includes the closure, consolidation or construction of a school or schools.

(3) Guidelines and procedures for evaluating project proposals that are submitted to the authority that address, but are not limited to, the following:

(A) Any project funded by the authority ~~must~~ shall be in furtherance of the facilities plan or school major improvement plan and in compliance with the guidelines established by the authority;

(B) If a project is to benefit more than one county in the region, the facilities plan ~~must~~ shall state the manner in which the cost and funding of the project will be apportioned among the counties;

(C) If a county board proposes to finance a construction project through a lease with an option to purchase pursuant to an investment contract as described in subsection (f), section fifteen of this article, the specifications for the project must include the term of the lease, the amount of each lease payment, including the payment due upon exercise of the option to purchase, and the terms and conditions of the proposed investment contract; and

(D) The objective criteria for the evaluation of projects which shall include, but ~~are~~ is not limited to, the following:

(i) How the current facilities do not meet and how the plan and any project under the plan ~~meets~~ meet the following:

(I) Student health and safety including, but not limited to, critical health and safety needs;

(II) Economies of scale, including compatibility with similar schools that have achieved the most economical organization, facility use and pupil-teacher ratios;

(III) Reasonable travel time and practical means of addressing other demographic considerations. The authority may not approve a project ~~after July 1, 2008~~ that includes a school closure, consolidation or new construction for which a new bus route will be created for ~~the transportation of students in any of the grade levels prekindergarten through grade five~~ transporting any prekindergarten through fifth grade students to and from any school included in

the project, ~~which new bus if the~~ route exceeds by more than fifteen minutes the recommended ~~duration of the one-way school bus transportation~~ duration time for elementary students adopted by the state board ~~as provided in~~ pursuant to section five-d, article two-e of this chapter, unless the county has received the written permission of the state board to create the route in accordance with said section five-d;

(IV) Multicounty and regional planning to achieve the most effective and efficient instructional delivery system;

(V) Curriculum improvement and diversification, including the use of instructional technology, distance learning and access to advanced courses in science, mathematics, language arts and social studies;

(VI) Innovations in education;

(VII) Adequate space for projected student enrollments;

(VIII) The history of efforts taken by the county board to propose or adopt local school bond issues or special levies to the extent Constitutionally permissible; and

(IX) Regularly scheduled preventive maintenance; and

(ii) How the project will assure the prudent and resourceful expenditure of state funds and achieve the purposes of this article for constructing, expanding, renovating or otherwise improving and maintaining school facilities for a thorough and efficient education.

(4) Guidelines and procedures for evaluating projects for funding that address, but are not limited to, the following:

(A) Requiring each county board's facilities plan and school major improvement plan to prioritize all the construction projects or major improvement projects, respectively, within the county. A school major improvement plan submitted by the state board or the administrative council of an area vocational educational center shall prioritize all the school improvement projects contained in the plan. The priority list shall be one of the criteria to be considered by the authority in determining how available funds shall be expended. In prioritizing the projects, the county board, the state board or the administrative council submitting a plan shall make determinations in accordance with the objective criteria formulated by the School Building Authority;

(B) The return to each county submitting a project proposal an explanation of the evaluative factors underlying the decision of the authority to fund or not to fund the project; and

(C) The allocation and expenditure of funds in accordance with this article, subject to the availability of funds.

(b) Prior to final action on approving projects for funding under this article, the authority shall submit a certified list of the projects to the Joint Committee on Government and Finance.

(c) The State Department of Education shall conduct on-site inspections, at least annually, of all facilities which have been funded wholly or in part by moneys from the authority or state board to ensure compliance with the county board's facilities plan and school major improvement plan

as related to the facilities; to preserve the physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of the facilities. ~~Provided, That~~ The state board shall submit reports regarding ~~its on-site~~ the inspections of facilities to the authority within thirty days of completion. ~~of the on-site inspections: Provided, however, That~~ The state board shall promulgate rules regarding the on-site inspections and matters relating thereto, in consultation with the authority, ~~as soon as practical~~ and shall submit proposed rules for legislative review. ~~no later than December 1, 1994~~

(d) Based on its on-site inspection or notification by the authority to the state board that the changes or additions to a ~~county's board~~ county board's facilities plan or school major improvement plan ~~required by the authority~~ have not been implemented within the time period prescribed by the authority, the state board shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter.

§18-9D-22. Eligibility of the West Virginia Schools for the Deaf and Blind to participate in all types of funding administered or distributed by the authority.

(a) The Legislature finds that:

(1) The Legislature's Constitutional obligation to provide a thorough and efficient public education for the children of West Virginia includes providing a thorough and efficient education for the children of West Virginia who are deaf and blind;

(2) The Legislature has endeavored to fulfill this obligation with the creation, maintenance and operation of the West Virginia Schools for the Deaf and Blind, established and continued under article seventeen of this chapter;

(3) The West Virginia Schools for the Deaf and Blind have for generations provided educational services to children from each of West Virginia's fifty-five counties;

(4) The facilities of the West Virginia Schools for the Deaf and Blind are in need of substantial improvements;

(5) The West Virginia Schools for the Deaf and Blind have no local levy which supports their operations, and depend completely upon the appropriations from the state;

(6) The West Virginia Schools for the Deaf and Blind have no borrowing authority nor revenue stream that can serve as a source of servicing debt;

(7) Questions have arisen as to whether or not it is permissible for the School Building Authority to distribute to the West Virginia Schools for the Deaf and Blind financial assistance for the construction and improvement of their facilities; and

(8) The West Virginia Schools for the Deaf and Blind should have access to and be eligible to receive all types of funding provided to county boards by the authority.

(b) Notwithstanding any provision of this code to the contrary:

(1) The West Virginia Schools for the Deaf and Blind are eligible to participate in all funding distributed by the authority; and

(2) The authority may distribute to the West Virginia Schools for the Deaf and Blind funds as it determines to be appropriate.

(c) The authority may not require the contribution of local funds for a project of the West Virginia Schools for the Deaf and Blind, nor penalize the consideration or priority ranking of a project of the schools for lack of local project funds. The state board may apply for funds for education programs under its jurisdiction for projects at the West Virginia Schools for the Deaf and Blind.

On motion of Senator Boso, the following amendment to Senator Trump's amendment to the bill (Eng. Com. Sub. for H. B. 2561) was reported by the Clerk:

On page twenty-three, section ten, line ninety-seven, after the period, by adding the following: Changes to a comprehensive education facility plan shall be based on the applicable rules and policies of the State Board of Education in effect at the time changes to the comprehensive education facility plan are considered by the local board of education.

Following discussion,

The question being on the adoption of Senator Boso's amendment to Senator Trump's amendment to the bill, and on this question, Senator Plymale demanded the yeas and nays.

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

The nays were: Beach, Facemire, Jeffries, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Unger and Woelfel—14.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Boso's amendment to Senator Trump's amendment to the bill (Eng. Com Sub. for H. B. 2561) adopted.

The question now being on the adoption of Senator Trump's amendment to the bill, as amended.

Senator Palumbo arose to a point of order that Senator Trump's amendment to the bill, as amended, was not germane to the bill.

Which point of order, the President ruled well taken.

Thereafter, on motion of Senator Boso, the Senate reconsidered its action by which it immediately hereinbefore adopted Senator Boso's amendment to Senator Trump's amendment to the bill.

The vote thereon having been reconsidered,

At the request of Senator Boso, and by unanimous consent, Senator Boso's amendment to Senator Trump's amendment to the bill (Eng. Com. Sub. for H. B. 2561) was withdrawn.

The question now being on the adoption of Senator Trump's amendment to the bill, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, 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 those present and voting having voted in the affirmative, the President declared Senator Trump's amendment to the bill adopted.

The bill (Eng. Com. Sub. for H. B. 2561), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2601, Relating to municipal policemen's or municipal firemen's pension and relief funds.

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

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

On pages three and four, section twenty-seven-b, lines three through five, by striking out the words "felony and, upon conviction thereof, shall be punished by a fine not to exceed \$5,000, by imprisoned in a state correctional facility not more than five years, or by both fine and imprisoned" and inserting in lieu thereof the words "misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than one year, or both fined and confined".

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

On page four, section twenty-seven-b, line seven, after the word "Board." by striking out the remainder of the bill.

The bill (Eng. Com. Sub. for H. B. 2601), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license.

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

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

Eng. Com. Sub. for House Bill 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund.

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

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

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §18-9D-3 and §18-9D-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:.

The bill (Eng. Com. Sub. for H. B. 2720), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs.

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

Eng. Com. Sub. for House Bill 2759, Creating Statewide Interoperable Radio Network.

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

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

On pages one through three, by striking out all of section three and inserting in lieu thereof a new section, designated section three-a, to read as follows

§5A-3-3a. Additional exemptions from purchasing requirements.

The provisions of subdivision nine, section three, article three, chapter five-a do not apply to construction or repair contracts entered into by the state for the emergency construction or repair of the Statewide Interoperable Radio Network created by article fourteen, chapter fifteen of this code.;

On page seven, section four, line one, by striking out the word "Director" and inserting in lieu thereof the word "director";

On page eight, section four, line thirty, by striking out the word "Director" and inserting in lieu thereof the word "director";

On page eight, section four, line thirty-two, by striking out the word "Director" and inserting in lieu thereof the word "director";

On page nine, section five, line twenty-six, by striking out the words "SIRN account" and inserting in lieu thereof the words "Statewide Interoperable Radio Network Account";

On page thirteen, section nine, line eleven, by striking out the word "account" and inserting in lieu thereof the words "Statewide Interoperable Radio Network Account";

On page thirteen, section nine, line seventeen, by striking out the words "SIRN account" and inserting in lieu thereof the words "Statewide Interoperable Radio Network Account";

On page thirteen, section nine, line twenty-one, by striking out the words “the thirtieth day of June 2018” and inserting in lieu thereof the words “on June 30, 2018”;

On page thirteen, section nine, line twenty-three, by striking out the words “special revenue account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”;

On page thirteen, section nine, line twenty-four, by striking out the words “special revenue account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”;

On page fourteen, section nine, line twenty-seven, by striking out the words “SIRN account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-3a; that §5A-6-8 of said code be amended and reenacted; that §5A-10-6 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all to read as follows:.

The bill (Eng. Com. Sub. for H. B. 2759), as amended, was then ordered to third reading.

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

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

The nays were: None.

Absent: Ojeda—1.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2759) was then 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, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Ojeda—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2759) passed.

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

Eng. Com. Sub. for House Bill 2759—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §5A-3-3a; to amend and reenact §5A-6-8 of said code; to amend and reenact §5A-10-6 of said code; and to amend said code by adding thereto a new article, designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all relating to creating Statewide Interoperable Radio Network; establishing short title; defining terms; establishing objectives and purpose; creating position of Statewide Interoperable Coordinator; prescribing duties for Statewide Interoperability Coordinator; creating Statewide Interoperability Executive Committee; prescribing duties for Statewide Interoperability Executive Committee; creating the Regional Interoperability Committee; prescribing duties for Regional Interoperability Committee; providing for transfer of assets and staffing of Statewide Interoperable Radio Network from the Department of Health and Human Resources to the West Virginia Department of Homeland Security and Emergency Management with a certain exception; establishing special revenue account for Statewide Interoperable Radio Network designated as the Statewide Interoperable Radio Network Account; providing for deposit of revenues derived from the lease of property managed as part of the West Virginia Statewide Interoperable Radio Network into the Statewide Interoperable Radio Network Account; exempting Statewide Interoperable Radio Network from certain Purchasing Division and Office of Technology requirements; and authorizing emergency and legislative rulemaking.

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

The nays were: None.

Absent: Ojeda—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2759) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund.

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

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

Eng. Com. Sub. for House Bill 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members.

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

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

On page one, section seven-a, line fourteen, after the word “surgery” by inserting the words “as an osteopathic physician and surgeon”;

On page one, section seven-a, line fifteen, after the word “licensed” by inserting the words “or certified as an osteopathic”;

And,

On page one, section seven-a, line fifteen, after the word “as” by striking out the word “a”.

The bill (Eng. Com. Sub. for H. B. 2804), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2850, Relating to product liability actions.

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

Eng. Com. Sub. for House Bill 2857, West Virginia Safer Workplaces Act.

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

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

On page four, section seven, after line four, by inserting a new subdivision, designated subdivision (2), to read as follows:

(2) Any observer of the collection of urine samples shall be of the same sex as the employee.

And,

By renumbering the remaining subdivisions.

Following discussion,

The question being on the adoption of Senator Romano’s amendments to the bill, and on this question, Senator Trump 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, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Ojeda—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Romano's amendments to the bill adopted.

The bill (Eng. Com. Sub. for H. B. 2857), as amended, was then ordered to third reading.

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

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

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

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

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

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

(a) The sheriff of any county may, for the purposes hereinafter set forth, designate and appoint a deputy sheriffs' reserve, hereinafter referred to as "reserve" or "reserves." A reserve may not be designated or created without the prior approval of the county commission for the establishment of the reserve.

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

(c) Members of the reserves shall not serve as law-enforcement officers, nor carry firearms, but may carry other weapons, provided that the sheriff certifies in writing to the county commission that the reserve has met the special training requirements for the weapon as established by the Governor's Committee on Crime, Delinquency and Corrections. The Governor's Committee on Crime, Delinquency and Corrections is authorized to promulgate legislative rules and emergency rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to establish appropriate training standards. The reserves may be provided with radio communication equipment for the purpose of maintaining contact with the sheriff's department or other law-enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control and direction within the county. In addition, the reserves may perform such other duties of a nonlaw-enforcement nature as are designated by the sheriff or by a deputy sheriff designated and appointed by the sheriff for that purpose: *Provided*, That a member of the reserves may not aid or assist any law-enforcement officer in enforcing the statutes and laws of this state in any labor trouble or dispute between employer and employee-; *Provided, however*, That a sheriff may authorize a member of the reserves to carry a handgun in the course of performing his or her official duties if the member has previously successfully completed an initial firearm training

course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.

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

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

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

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

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

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-19. Ambulance crew's authority to carry firearm.

Notwithstanding any provision of this code to the contrary, an authority may authorize an emergency medical service member to carry a handgun in the course of performing his or her official duties if the member has first successfully completed an initial firearms training course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-28. Firefighters' and rescue squad members' authority to carry firearm.

Notwithstanding any provision of this code to the contrary, a department may authorize a firefighter or rescue squad member to carry a handgun in the course of performing his or her official duties if the member has first successfully completed an initial firearms training course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.

CHAPTER 16. PUBLIC HEALTH.**ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.****§16-4C-24. Emergency medical service personnel's authority to carry firearm.**

Notwithstanding any provision of this code to the contrary, an emergency medical service agency may authorize emergency medical service personnel to carry a handgun in the course of performing his or her official duties if the member has first successfully completed an initial firearms training course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.

On motion of Senator Azinger, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2916) was reported by the Clerk and adopted:

On page one, after the enacting section, by inserting a new section, designated section six, to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR.**ARTICLE 3. ATTORNEY GENERAL.****§5-3-6. Authorizing Attorney General's investigators to carry firearms; requirements.**

Notwithstanding any provision of this code to the contrary, the Attorney General may authorize investigators employed by the Office of the Attorney General to carry a handgun in the course of performing his or her official duties if the investigator has first successfully completed an initial firearms training course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.;

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §6-3-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto four new sections, designated §5-3-6, §7-15-19, §8-15-28 and §16-4C-24, all to read as follows:.

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

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

Eng. House Bill 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony.

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. CRIMES AGAINST THE PERSON.

§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, utility workers, law-enforcement officers, correctional employees and emergency medical service personnel; definitions; penalties.

(a) For purposes of this section:

(1) "Government representative" means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

(2) "Health care worker" means any nurse, nurse practitioner, physician, physician assistant or technician practicing at, and all persons employed by or under contract to a hospital, county or district health department, long-term care facility, physician's office, clinic or outpatient treatment facility.

(3) "Emergency service personnel" means any paid or volunteer firefighter, emergency medical technician, paramedic, or other emergency services personnel employed by or under contract with an emergency medical service provider or a state agency or political subdivision thereof.

(4) "Utility worker" means any individual employed by a public utility or electric cooperative or under contract to a public utility, electric cooperative or interstate pipeline.

(5) "Law-enforcement officer" has the same definition as this term is defined in W.Va. Code §30-29-1, except for purposes of this section, "law-enforcement officer" shall additionally include those individuals defined as "chief executive" in W.Va. Code §30-29-1.

(6) "Correctional employee" means any individual employed by the West Virginia Division of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile

Services and an employee of one entity providing services to incarcerated, detained or housed persons pursuant to a contract with such agencies.

(b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than three nor more than fifteen years.

(c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two nor more than five years.

(d) *Battery.* — Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor more than twelve months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(e) *Assault.* — Any person who unlawfully attempts to commit a violent injury to the person of a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer, acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months, fined not more than \$200, or both fined and confined.

On motion of Senator Romano, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 3018) was reported by the Clerk:

On page three, section ten-b, after line fifty-nine, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Any person convicted of any crime set forth in this section who is incarcerated in a facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail Authority, or is in the custody of the Division of Juvenile Services and is at least eighteen years of age or subject to prosecution as an adult, at the time of committing the offense and whose victim is a correctional employee may not be sentenced in a manner by which the sentence would run concurrent with any other sentence being served at the time the offense giving rise to the conviction of a crime set forth in this section was committed.

Following discussion,

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

The question now being on the adoption of the Judiciary committee amendment, as amended, the same was put and prevailed.

The bill (Eng. H. B. 3018), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person.

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

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

Eng. Com. Sub. for House Bill 3030, Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals.

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 §17C-5A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §58-5-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.

§17C-5A-2. Hearing; revocation; review.

(a) Written objections to an order of revocation or suspension under the provisions of section one of this article or section seven, article five of this chapter shall be filed with the Office of Administrative Hearings. Upon the receipt of an objection, the Office of Administrative Hearings shall notify the Commissioner of the Division of Motor Vehicles, who shall stay the imposition of

the period of revocation or suspension and afford the person an opportunity to be heard by the Office of Administrative Hearings. The written objection must be filed with Office of Administrative Hearings in person, by registered or certified mail, return receipt requested, or by facsimile transmission or electronic mail within thirty calendar days after receipt of a copy of the order of revocation or suspension or no hearing will be granted: *Provided*, That a successful transmittal sheet shall be necessary for proof of written objection in the case of filing by fax. The hearing shall be before a hearing examiner employed by the Office of Administrative Hearings who shall rule on evidentiary issues. The West Virginia Rules of Evidence shall apply to all proceedings before the hearing examiner. Upon consideration of the designated record, the hearing examiner shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be provided to all parties by registered or certified mail, return receipt requested, or with a party's written consent, by facsimile or electronic mail.

(b) The hearing shall be held at an office of the Division of Motor Vehicles suitable for hearing purposes located in or near the county in which the arrest was made in this state or at some other suitable place in the county in which the arrest was made if an office of the division is not available. At the discretion of the Office of Administrative Hearings, the hearing may also be held at an office of the Office of Administrative Hearings located in or near the county in which the arrest was made in this state. The Office of Administrative Hearings shall send a notice of hearing to the person whose driving privileges are at issue and the person's legal counsel if the person is represented by legal counsel, by regular mail, or with the written consent of the person whose driving privileges are at issue or their legal counsel, by facsimile or electronic mail. The Office of Administrative Hearings shall also send a notice of hearing by regular mail, facsimile or electronic mail to the Division of Motor Vehicles, and the Attorney General's Office, if the Attorney General has filed a notice of appearance of counsel on behalf of the Division of Motor Vehicles.

(c) (1) Any hearing shall be held within one hundred eighty days after the date upon which the Office of Administrative Hearings received the timely written objection unless there is a postponement or continuance.

(2) The Office of Administrative Hearings may postpone or continue any hearing on its own motion or upon application by the party whose license is at issue in that hearing or by the commissioner for good cause shown.

(3) The Office of Administrative Hearings may issue subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents, items or other things. Subpoenas duces tecum shall be returnable on the date of the next scheduled hearing unless otherwise specified. The Office of Administrative hearings shall issue subpoenas and subpoenas duces tecum at the request of a party or the party's legal representative. The party requesting the subpoena shall be responsible for service of the subpoena upon the appropriate individual. Every subpoena or subpoena duces tecum shall be served at least five days before the return date thereof, either by personal service made by a person over eighteen years of age or by registered or certified mail, return receipt requested, and received by the party responsible for serving the subpoena or subpoena duces tecum: *Provided*, That the Division of Motor Vehicles may serve subpoenas to law-enforcement officers through electronic mail to the department of his or her employer. If a person does not obey the subpoena or fails to appear, the party who issued the subpoena to the person may petition the circuit court wherein the action lies for enforcement of the subpoena.

(d) Law-enforcement officers shall be compensated for the time expended in their travel and appearance before the Office of Administrative Hearings by the law-enforcement agency by whom they are employed at their regular rate if they are scheduled to be on duty during said time or at their regular overtime rate if they are scheduled to be off duty during said time.

(e) The principal question at the hearing shall be whether the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did refuse to submit to the designated secondary chemical test, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight.

(f) In the case of a hearing in which a person is accused of driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, or accused of driving a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or accused of driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the investigating law-enforcement officer had reasonable grounds to believe the person to have been driving while under the influence of alcohol, controlled substances or drugs, or while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or to have been driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense involving driving under the influence of alcohol, controlled substances or drugs; and (4) whether the tests, if any, were administered in accordance with the provisions of this article and article five of this chapter.

(g) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person and was committed in reckless disregard of the safety of others and if the Office of Administrative Hearings further finds that the influence of alcohol, controlled substances or drugs or the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of ten years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(h) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol

concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(i) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(j) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent or more, by weight, or finds that the person knowingly permitted the persons vehicle to be driven by another person who was under the influence of alcohol, controlled substances or drugs, or knowingly permitted the person's vehicle to be driven by another person who had an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period of six months or a period of fifteen days with an additional one hundred and twenty days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a of this article: *Provided*, That any period of participation in the Motor Vehicle Alcohol Test and Lock Program that has been imposed by a court pursuant to section two-b, article five of this chapter shall be credited against any period of participation imposed by the commissioner: *Provided, however*, That a person whose license is revoked for driving while under the influence of drugs is not eligible to participate in the Motor Vehicle Alcohol Test and Lock Program: *Provided, further*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *And provided further*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(k)(1) If in addition to finding by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substance or drugs, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person did drive a motor vehicle while having an alcohol concentration in the person's blood of fifteen hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period

of forty-five days with an additional two hundred and seventy days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a, article five-a, chapter seventeen-c of this code: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked the person's license more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(2) If a person whose license is revoked pursuant to subdivision (1) of this subsection proves by clear and convincing evidence that they do not own a motor vehicle upon which the alcohol test and lock device may be installed or is otherwise incapable of participating in the Motor Vehicle Alcohol Test and Lock Program, the period of revocation shall be one hundred eighty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(l) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(m) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the bodily injury, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(n) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less

than eight hundredths of one percent, by weight, the commissioner shall suspend the person's license for a period of sixty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article, the period of revocation shall be for one year, or until the person's twenty-first birthday, whichever period is longer.

(o) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did have on or within the Motor vehicle another person who has not reached his or her sixteenth birthday, the commissioner shall revoke the person's license for a period of one year: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(p) For purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of criminal convictions or administrative suspensions or revocations shall also be regarded as suspensions or revocations under this section or section one of this article:

(1) Any administrative revocation under the provisions of the prior enactment of this section for conduct which occurred within the ten years immediately preceding the date of arrest;

(2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest; or

(3) Any revocation under the provisions of section seven, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest.

(q) In the case of a hearing in which a person is accused of refusing to submit to a designated secondary test, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the arresting law-enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) whether the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) whether the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated in the manner provided in said section.

(r) If the Office of Administrative Hearings finds by a preponderance of the evidence that: (1) The investigating officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated, the commissioner shall revoke the person's license to operate a motor vehicle in this state for the periods specified in section seven, article five of this chapter. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence.

(s) If the Office of Administrative Hearings finds to the contrary with respect to the above issues, it shall rescind or modify the commissioner's order and, in the case of modification, the commissioner shall reduce the order of revocation to the appropriate period of revocation under this section or section seven, article five of this chapter. A copy of the Office of Administrative Hearings' final order containing its findings of fact and conclusions of law made and entered following the hearing shall be served upon the person whose license is at issue or upon the person's legal counsel if the person is represented by legal counsel by registered or certified mail, return receipt requested, or by facsimile or by electronic mail if available. The final order shall be served upon the commissioner by electronic mail. During the pendency of any hearing, the revocation of the person's license to operate a motor vehicle in this state shall be stayed.

~~A person whose license is at issue and the commissioner shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code. Neither the commissioner nor the Office of Administrative Hearings may stay enforcement of the order. The court may grant a stay or supersede as of the order only upon motion and hearing, and a finding by the court upon the evidence presented, that there is a substantial probability that the appellant shall prevail upon the merits and the appellant will suffer irreparable harm if the order is not stayed: *Provided*, That in no event shall the stay or supersede as of the order exceed one hundred fifty days. The Office of Administrative Hearings may not be made a party to an appeal. The party filing the appeal shall pay the Office of Administrative Hearings for the production and transmission of the certified file copy and the hearing transcript to the court. Notwithstanding the provisions of section four, article five of said chapter, the Office of Administrative Hearings may not be compelled to transmit a certified copy of the file or the transcript of the hearing to the circuit court in less than sixty days. Circuit clerk shall provide a copy of the circuit court's final order on the appeal to the Office of Administrative Hearings by regular mail, by facsimile, or by electronic mail if available.~~

(t) Any person whose license is at issue and the commissioner shall be entitled to appeal such decision as a matter of right by requesting such appeal within thirty days after the date upon which he or she received notice of the final order or written decision of the agency. Such appeal shall be made to the circuit court in the county which the arrest was made. Such hearing on appeal before the circuit court shall be a trial de novo. The Office of Administrative Hearings may not be

made a party to an appeal. During any appeal filed pursuant to this subsection, the order revoking or suspending the person's driver's license shall be stayed.

~~(t)~~ (u) In any revocation or suspension pursuant to this section, if the driver whose license is revoked or suspended had not reached the driver's eighteenth birthday at the time of the conduct for which the license is revoked or suspended, the driver's license shall be revoked or suspended until the driver's eighteenth birthday or the applicable statutory period of revocation or suspension prescribed by this section, whichever is longer.

~~(u)~~ (v) Funds for this section's hearing and appeal process may be provided from the Drunk Driving Prevention Fund, as created by section forty-one, article two, chapter fifteen of this code, upon application for the funds to the Commission on Drunk Driving Prevention.

CHAPTER 58. APPEAL AND ERROR.

ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF APPEALS.

§58-5-1. Appeal as a matter of right; when appeal lies.

(a) All appeals shall be afforded a full and meaningful review by the Supreme Court of Appeals, and a written decision on the merits shall be issued, as a matter of right.

(b) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties.

(c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction or which affirms a conviction obtained in an inferior court.

The bill (Eng. Com. Sub. for H. B. 3030), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes.

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

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

On page two, section eleven, line thirty-two, by striking out the words "commissioner of highways may, in his or her discretion," and inserting in lieu thereof the words "Legislature may";

And,

On page two, section eleven, line thirty-four, by striking out the words "any highway of this state designated by the commissioner" and inserting in lieu thereof the words "the segment of US Route 35 from Buffalo, West Virginia, to the Ohio state line".

Following discussion,

The question being on the adoption of Senator Plymale's amendments to the bill (Eng. Com. Sub. for H. B. 3064), the same was put.

The result of the voice vote being inconclusive, Senator Plymale demanded a division of the vote.

A standing vote being taken, there were sixteen "yeas" and seventeen "nays".

Whereupon, Senator Carmichael (Mr. President) declared Senator Plymale's amendments to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 3064) was then ordered to third reading.

Eng. Com. Sub. for House Bill 3093, Establishing Broadband Enhancement and Expansion Policies.

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

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

Eng. Com. Sub. for House Bill 3102, Relating to selling Hopemont Hospital.

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

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

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

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-26. Selling of Hopemont Hospital.

(a) The Secretary of the Department of Health and Human Resources shall divest of the facilities; land; buildings and improvements; contents; employment, patient and contractual interests; licenses for staffed beds; and all other assets utilized in the current operation of the facility excluding any cash, cash equivalents and marketable securities of the long-term care facility known as the Hopemont Hospital.

(b) The secretary shall ensure that the patients are transferred to an area facility and shall minimize effects on long-term care facility residents, including any potential risk that could arise from relocating current residents and shall provide updates to the Joint Committee on Government and Finance and to the Legislative Oversight Commission on Health and Human Resources Accountability, pursuant to state law.

(c) The secretary shall assure that a replacement facility of 60 beds be constructed on the land currently utilized for Hopemont Hospital to accommodate the needs of the patient population at Hopemont and be operated as a geriatric psychiatric nursing home accepting, regardless of age, only individuals with high acuity needs similar to the residents of Hopemont Hospital, such

as geri-psych, behavioral symptoms, Alzheimer's, intellectual and developmental disabilities, and patients with a criminal history who do not present a danger to staff or other residents.

(d) All licensed beds of Hopemont Hospital that are not staffed as of the effective date of this section are deemed to be decertified and delicensed and may not be transferred or otherwise added to the licensed bed compliment of any health care facility.

(e) This section is not subject to the purchasing requirements of article three, chapter five-a of this code.

(f) Sales and transfers pursuant to this section are exempt from certificate of need requirements provided in article two-d, chapter sixteen of this code.

(g) Sales and transfers under this section are exempt from Medicaid rules and policies.

(h) The secretary, in consultation with the Director of the Division of Personnel, shall create a plan and coordinate with the secretary to create a strategy to minimize the effects on employees.

(i) The Department of Health and Human Resources, in consultation with the Division of Personnel, the Consolidated Public Retirement Board and any other state agency as applicable, shall prepare a benefit package for employees of Hopemont Hospital who are laid off, employed by a successor company or retire as a result of the divestment. Such benefits may include, but are not limited to, investment in retraining, placement on the Division of Personnel's reemployment list with preference, the purchase of actuarially sound years of service based on prior years of service with Hopemont Hospital or its predecessors or any other benefits otherwise permitted under state law. The Division of Personnel, the Consolidated Public Retirement Board and any other necessary state agency shall cooperate and take any such action as necessary to implement such benefit package. Benefits packages as described in this subsection may be funded by the Hopemont Long Term Care Facility Development Fund. As used in this subsection "successor company" means any company who purchases any of the assets as described in subsection (a) of this section: *Provided*, That no provision of this subsection may be construed to require any further appropriation by the Legislature: *Provided, however*, That the Department of Health and Human Resources shall enter into a memoranda of understanding with the Division of Personnel, the Consolidated Public Retirement Board, and the Public Employees Insurance Agency prior to implementation of any benefit package with any employee which must state any cost to any affected retirement system and that this cost is to be paid by the Department of Health and Human Resources. No benefit package may be granted unless memoranda of understanding are filed with the Division of Personnel, the Consolidated Public Retirement Board, and the Public Employees Insurance Agency, and the agreement of the Department of Health and Human Resources to pay the same by a date certain, or if there is not cost, the agreement of the parties to the same. Any benefit package granted without such memoranda of understanding is unlawful.

(j) The secretary shall prepare a complete accounting of all assets to the Joint Committee on Government and Finance.

(k) There is created in the state treasury a special revenue account to be known as the "Hopemont Long Term Care Facility Development Fund". The fund shall consist of appropriations to effectuate the purposes of this section and any revenue or sales proceeds derived from activities provided for in accordance with this section. Expenditures from the fund are 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.

(l) This section shall be construed broadly as to provide the secretary with the latitude to accomplish the goals of this section.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 3102), 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 2520, Prohibiting the use of a tanning device by a person under the age of eighteen.

Eng. Com. Sub. for House Bill 2637, Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage.

Eng. Com. Sub. for House Bill 2651, Relating generally to standardized testing requirements for nonpublic schools.

Eng. House Bill 2745, Adding the examination of Advanced Care Technician.

Eng. Com. Sub. for House Bill 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

Eng. Com. Sub. for House Bill 2846, Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee.

Eng. Com. Sub. for House Bill 3061, Encouraging mastery-based education through the Innovation In Schools program.

And,

Eng. Com. Sub. for House Bill 3095, Allowing retired teachers to be employed by a higher education institution.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the sixth order of business, which agenda includes the making of main motions.

Senator Ferns moved that the Senate reconsider the vote by which on yesterday, Wednesday, April 5, 2017, it passed

Eng. Senate Bill 28, Creating new system for certain contiguous counties to establish regional recreation authorities.

The bill now being in the possession of the Senate,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Ferns, the Senate reconsidered the vote by which it adopted Senator Ferns' motion that Senate concur in the House of Delegates amendment to the bill (*shown in the Senate Journal of yesterday, Wednesday, April 5, 2017, page 1*).

Thereafter, at the request of Senator Ferns, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Maynard, the following amendment to the House of Delegates amendment to the bill (Eng. S. B. 28) was reported by the Clerk and adopted:

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

Eng. Senate Bill 28—A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; establishing trails for off-highway recreational vehicle use; providing for reimbursement by authority for natural resources police officers; authorizing creation of regional recreation authority as joint development entity formed by two or more contiguous counties; setting forth findings and definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in regional recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies.

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

Engrossed Senate Bill 28, as amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill 28 pass?"

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Facemire, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Miller, Palumbo, Plymale, Prezioso, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—26.

The nays were: Beach, Cline, Jeffries, Mullins, Ojeda, Romano, Stollings and Takubo—8.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 28) passed with its Senate amended title.

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

Senator Ferns moved that the Senate reconsider the vote by which on yesterday, Wednesday, April 5, 2017, it passed

Eng. Com. Sub. for House Bill 2683, Relating to West Virginia Insurance Guaranty Association Act.

The bill now being in the possession of the Senate,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

The vote thereon having been reconsidered,

The question again being " Shall Engrossed Committee Substitute for House Bill 2683 pass?"

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Facemire and Romano—2.

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. 2683) passed.

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

Eng. Com. Sub. for House Bill 2683—A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying the purpose, scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; limiting amount payable for covered claims for deliberate intention, including workers' compensation claims; limiting amount for covered claim for return of unearned premium; limiting amount association must pay for the obligation of the insolvent insurer; setting time limits for filing claims; specifying when obligation of insurer to defend an insured ceases; subject to limitations, giving association rights, duties and obligations of the insolvent insurer; allowing association to determine order of claims payment; prohibiting payment of dividends during period of deferment; hiring of legal counsel for the defense of covered claims; notification of claimants; setting forth the association's right to review and contest settlements, releases, compromises, waivers and judgments; specifying when association is not bound by a settlement, release, compromise or waiver; requiring association to establish procedures for requesting financial information from

insurers and claimants; setting forth actions association may take where insured or claimant refuses to provide requested financial information; allowing association to intervene as a party as a matter of right before any court; requiring rules of association be subject to legislative approval; requiring notice of claims be filed with the association; setting forth the persons from whom the association may recover all amounts paid by the association on behalf of that person; requiring association and associations in other states be recognized as claimants in the liquidation of an insolvent insurer; requiring person having a claim to exhaust all coverage under the policy; setting forth what constitutes a claim relating to exhaustion of coverage; requiring association be reimbursed for any deductible claim if paid; requiring board of directors to make recommendations to commissioner regarding solvency; allowing board of directors to compile reports on insolvencies; and providing that reports and recommendations of board are not subject to disclosure under the Freedom of Information Act.

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

Without objection, the Senate returned to the third order of business.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on April 6, 2017, he had approved **Enr. Committee Substitute for Senate Bill 127** and **Enr. Committee Substitute for Senate Bill 306**.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of 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. 5), Disqualifying CDL for DUI conviction in certain cases.

(Com. Sub. for S. B. 36), Permitting school nurses to possess and administer opioid antagonists.

(S. B. 41), Extending time person may be subject to probation.

(S. B. 164), Relating to traffic regulations and special load limits.

(Com. Sub. for S. B. 206), Expanding definition of "kidnapping" to include taking or gaining custody of, confining or concealing person by force.

(Com. Sub. for S. B. 214), Adopting Uniform Electronic Legal Material Act.

(Com. Sub. for S. B. 225) Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court.

(Com. Sub. for S. B. 233), Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act.

(Com. Sub. for S. B. 247), Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes.

(Com. Sub. for S. B. 248), Clarifying composition and chairmanship of Commission on Special Investigations.

(Com. Sub. for S. B. 261), Relating to increasing salary or wages of judgment debtor.

(Com. Sub. for S. B. 347), Relating to modernization of Physician Assistant Practice Act.

(Com. Sub. for S. B. 442), Relating generally to crimes against persons.

(Com. Sub. for S. B. 445), Amending definition of "abused child".

(Com. Sub. for S. B. 455), Relating generally to commitment of persons to custody of Commissioner of Corrections.

(Com. Sub. for S. B. 456), Relating to standards for termination of parental rights in child abuse and neglect cases.

(Com. Sub. for S. B. 473), Permitting collection and sale of naturally shed deer antlers.

(Com. Sub. for S. B. 497), Relating to liability for health care providers who provide services at school athletic events.

(Com. Sub. for S. B. 531), Relating to renewal date for apiary certificates of registration.

(Com. Sub. for S. B. 634), Relating generally to certain agreements between DHHR and state's medical schools.

And,

(S. B. 684), Relating generally to WV State Police.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Roger Hanshaw,
Chair, House Committee.

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 2109, Relating to the West Virginia Land Reuse Agency Authorization Act.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2109) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 2196, Relating to the secondary schools athletic commission.

And has amended same.

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

Respectfully submitted,

Kenny Mann,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2196) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

Now on second reading, having been read a first time and referred to the Committee on Finance on April 4, 2017;

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2851, Updating fee structure provisions for broker-dealers.

And has amended same.

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

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2851) 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 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 2935, Relating to state flood protection planning.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2935) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2936, Requiring purchases to be made at lowest retail price available at level of quality sought by the spending unit.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2936) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3096, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3096) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. House Bill 3103, Making a supplementary appropriation to the Department of Health and Human Resources.

And has amended same.

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

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 3103) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Friday, April 7, 2017, at 11 a.m.

SENATE CALENDAR

**Friday, April 07, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Saturday, April 08, 2017 – 11:00 AM

Consideration of executive nominations

UNFINISHED BUSINESS

S. C. R. 63 - Requesting study on options for financing construction and completion of Coalfields Expressway

THIRD READING

Eng. Com. Sub. for S. B. 476 - Expiring funds from Revenue Shortfall Reserve Fund to General Revenue (original similar to HB2801)

Eng. Com. Sub. for H. B. 2366 - Relating to selling Jackie Withrow Hospital - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2428 - Establishing additional substance abuse treatment facilities - (Com. title amend. pending)

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) - (With right to amend)

Eng. Com. Sub. for H. B. 2552 - Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund

Eng. Com. Sub. for H. B. 2561 - Relating to public school support

Eng. Com. Sub. for H. B. 2601 - Relating to municipal policemen's or municipal firemen's pension and relief funds - (Com. title amend. pending) (original similar to SB393)

Eng. Com. Sub. for H. B. 2702 - Relating to excused absences for personal illness from school - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2708 - Relating to a lawful method for a developmentally disabled person to purchase a base hunting license - (Com. amend. and title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2720 - Allowing the School Building Authority to transfer funds allocated into the School Construction Fund - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2724 - Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs

- Eng. Com. Sub. for H. B. 2804 - Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members
- Eng. Com. Sub. for H. B. 2850 - Relating to product liability actions
- Eng. Com. Sub. for H. B. 2857 - West Virginia Safer Workplaces Act
- Eng. Com. Sub. for H. B. 2916 - Authorizing certain first responders to carry firearms - (Com. title amend. pending)
- Eng. H. B. 3018 - Adding definition of correctional employee to the list of persons against whom an assault is a felony - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 3020 - Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 3030 - Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 3064 - Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes
- Eng. Com. Sub. for H. B. 3093 - Establishing Broadband Enhancement and Expansion Policies - (Com. amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 3102 - Relating to selling Hopemont Hospital - (Com. title amend. pending)

SECOND READING

- Eng. Com. Sub. for H. B. 2002 - Relating to parental notification of abortions performed on unemancipated minors - (Com. amend. and title amend. pending) (original similar to HB2053, SB424)
- Eng. Com. Sub. for H. B. 2018 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution
- Eng. Com. Sub. for H. B. 2109 - Relating to the West Virginia Land Reuse Agency Authorization Act - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2196 - Relating to the secondary schools athletic commission - (Com. amends. pending)
- Eng. Com. Sub. for H. B. 2359 - Relating to offenses and penalties for practicing osteopathic medicine without a license - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2520 - Prohibiting the use of a tanning device by a person under the age of eighteen (original similar to SB672)
- Eng. Com. Sub. for H. B. 2620 - West Virginia Drug Overdose Monitoring Act - (Com. amend. and title amend. pending)

- Eng. Com. Sub. for H. B. 2637 - Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2648 - Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor - (Com. amend. and title amend. pending) (original similar to HB2448, HB2671)
- Eng. Com. Sub. for H. B. 2651 - Relating generally to standardized testing requirements for nonpublic schools
- Eng. Com. Sub. for H. B. 2674 - Relating to access to and receipt of certain information regarding a protected person - (Com. title amend. pending)
- Eng. H. B. 2675 - Relating to primary elections and nominating procedures - (Com. amend. and title amend. pending)
- Eng. H. B. 2684 - Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2694 - Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas
- Eng. Com. Sub. for H. B. 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 - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2711 - Abolishing regional educational service agencies and providing for the transfer of property and records - (Com. amends. and title amend. pending)
- Eng. H. B. 2745 - Adding the examination of Advanced Care Technician
- Eng. Com. Sub. for H. B. 2781 - Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2799 - Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit
- Eng. Com. Sub. for H. B. 2801 - Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund
- Eng. Com. Sub. for H. B. 2846 - Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee
- Eng. Com. Sub. for H. B. 2851 - Updating fee structure provisions for broker-dealers - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2935 - Relating to state flood protection planning - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2936 - Requiring purchases to be made at lowest retail price available at level of quality sought by the spending unit - (Com. amend. pending)

Eng. Com. Sub. for H. B. 3061 - Encouraging mastery-based education through the Innovation In Schools program

Eng. Com. Sub. for H. B. 3095 - Allowing retired teachers to be employed by a higher education institution

Eng. Com. Sub. for H. B. 3096 - Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state - (Com. amends. pending) (original similar to SB657)

Eng. H. B. 3103 - Making a supplementary appropriation to the Department of Health and Human Resources - (Com. amends. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Friday, April 7, 2017

9:30 a.m.

Finance

(Room 451M)