

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Monday, March 20, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Tommy Knotts, Brenton Baptist Church, Wyoming, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pending the reading of the Journal of Saturday, March 18, 2017,

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

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

The Senate then proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 18, Requiring new comprehensive statewide student assessment.

And,

Com. Sub. for Senate Bill 479, Relating to regulation of liquor sales.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 298, Relating to ability of constitutional officer to voluntarily waive his or her salary for any calendar year.

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

Com. Sub. for Senate Bill 298 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6-7-2 of the Code of West Virginia, 1931, as amended, relating to compensation of constitutional officers generally; providing that a constitutional officer may waive all or part of his or her compensation; requiring that constitutional officer provide notice to the State Auditor fourteen days prior to the waiver's effective date; and providing that waiver of salary of compensation constitutes waiver of a constitutional officer's right to participate in the Public Employees Retirement System and the Public Employees Insurance Agency health benefits and retirement health benefits.

And,

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

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

Com. Sub. for Senate Bill 628 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-29; to amend and reenact §50-3-2 of said code; and to amend and reenact §62-5-10 of said code, all relating to creating a special revenue account in the State Treasury known as the Statewide Interoperable Radio Network Account; setting forth funding sources; providing for appropriation of moneys in the account; providing purposes for which the moneys may be used; providing for quarterly accounting; and providing funding for the Statewide Interoperable Radio Network through additional court costs to be imposed in criminal cases.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bills (Com. Sub. for S. B. 298 and 628), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 362, Authorizing redirection of certain amounts to General Revenue Fund.

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

Com. Sub. for Senate Bill 362 (originating in the Committee on Finance)—A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to authorizing the redirection of certain amounts to the General Revenue Fund; authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to July 1, 2018; changing the amount of premium surcharge to be paid by the self-insured employer community into the Workers' Compensation Debt Reduction Fund; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Government Organization has had under consideration

Com. Sub. for Senate Bill 382 (originating in the Committee on Transportation and Infrastructure), Allowing automobile auctions obtain abandoned vehicles' titles.

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

Com. Sub. for Com. Sub. for Senate Bill 382 (originating in the Committee on Government Organization)—A Bill to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-4-10 of said code, all relating to certificates of title and registration for motor vehicles; allowing licensed automobile auctions to obtain title to abandoned or junked motor vehicles; making technical corrections; allowing insurance companies to obtain salvage certificates, cosmetic total loss salvage certificates or nonrepairable motor vehicle certificates to motor vehicles for which a total loss claim was paid; allowing licensed automobile auction to obtain salvage certificates or nonrepairable motor vehicle certificates to certain vehicles; specifying application requirements that require the Division of Motor Vehicles to issue certificates; and requiring applicant to indemnify and hold harmless the division from liability due to error or misrepresentation of applicant.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 414, Creating Division of Multimodal Transportation.

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

Com. Sub. for Senate Bill 414 (originating in the Committee on Transportation and Infrastructure)—A Bill to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-4, §17-16B-5, §17-16B-6, §17-16B-7, §17-16B-7a, §17-16B-7b, §17-16B-8, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19, §17-16B-20, §17-16B-21 and §17-16B-22 of the Code of West Virginia, 1931, as amended; to repeal §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-3a, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, §29-2A-8, §29-2A-9, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-11b, §29-2A-11c, §29-2A-11d, §29-2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-14, §29-2A-17, §29-2A-18, §29-2A-19, §29-2A-20, §29-2A-21, §29-2A-22, §29-2A-23, §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27 and §29-2A-28 of said code; to repeal §29-18-1, §29-18-2, §29-18-3, §29-18-4, §29-18-4a, §29-18-5, §29-18-6, §29-18-7, §29-18-8, §29-18-9, §29-18-10, §29-18-11, §29-18-12, §29-18-13, §29-18-14, §29-18-15, §29-18-16, §29-18-17, §29-18-18, §29-18-19, §29-18-20, §29-18-21, §29-18-22, §29-18-23, §29-18-24 and §29-18-25 of said code; to amend and reenact §5F-2-1 of said code; and to amend said code by adding thereto a new article, designated §17-16F-1, §17-16F-2, §17-16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7, §17-16F-8, §17-16F-9, §17-16F-10, §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-15, §17-16F-16, §17-16F-17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22, §17-16F-23, §17-16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-16F-30, §17-16F-31, §17-16F-32, §17-16F-33, §17-16F-34, §17-16F-35 and §17-16F-36, all relating to the creation of the Division of Multimodal Transportation; combining the powers and duties and eliminating certain references to the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission; providing for legislative findings and creation of the division; transferring employees, equipment, assets, liabilities, contracts, agreements, functions and duties to the division; providing for all property currently held by the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission to be transferred to the division; authorizing the Secretary of the Department of Transportation to appoint the director; providing for qualifications for the director; establishing general powers and duties of the director; defining terms; establishing the powers and duties of the division generally; requiring division to promote, supervise and support safe, adequate and efficient transportation, preserve rail, water and airway facilities and promote economic development and tourism; authorizing division to work cooperatively with similar entities within and without the state; providing for siting, development and operation of facilities; authorizing employment of trained and qualified staff and consultants and compensating therefor; providing the right to enter into contracts and agreements; authorizing acquisition of various types and interests in property to be held in the name of the state; authorizing use of eminent domain; authorizing acquisition and disposal of property by various means; authorizing interagency cooperation; authorizing division to act on behalf of the state in planning, financing, development, construction and operation of port, railroad and aeronautic projects or facilities; reporting annually to Legislature on status of projects, operations, finances and related information; authorizing study and assessment of state transportation needs; authorizing use of various financing options including issuing revenue bonds and receipt of grants and loans; authorizing division to make grants and loans to governmental agencies and persons for multimodal transportation projects; permitting collection of reasonable fees and charges connected to making and servicing loans, notes, bonds and other obligations; granting rule-making authority to the division; continuing all rules, policies and orders of the combined entities until revised and reissued by the division; requiring strategic plan and reports to the Governor and

the Legislature; requiring collection and analysis of shipping through state ports; providing for confidentiality of collected information and providing criminal penalty for violation; providing that division employees may not have direct or indirect financial interest in contracts, sale of property of the division and providing criminal penalty for violation; providing that activities of division are for public purpose; authorizing the division to use certain property or facilities of a public utility, common carrier, public road or railroad for certain public projects; requiring the division to relocate any such property or facilities; providing for rules regarding relocation or removal of railroad or public utility located on division property; requiring the division to pay for said relocation or removal; encouraging participation of private enterprise in construction and operation of facilities; authorizing lease back to division; authorizing development of foreign trade zones, free trade zones, ports of entry and customs zones; providing for specific duties related to port projects; authorizing the division to act on behalf of the state in developing, operating, improving and maintaining ports; authorizing the division to coordinate and cooperate with other port entities; creating the West Virginia Multimodal Operations Fund and transference of funds and liabilities of the West Virginia Public Port Authority Operations Fund; eliminating local port authority districts; providing for specific duties related to rail projects; authorizing the exercise of powers necessary to qualify for federal subsidies; authorizing various means to carry out rail projects that are consistent with state plan with other entities; providing authority for the division to establish, fund, construct, reconstruct, acquire, repair, replace, operate, maintain and make available to other entities railroad projects; providing that research and development of railroads may be conducted; providing that contracts may be entered into to acquire various rolling stock, equipment or trackage and providing the requirements therefor; providing for the authority to enter into agreements that are beneficial to railroad projects notwithstanding other code provisions, including the authority to reject bids; authorizing division to purchase various types of insurance; authorizing the collection of fees for use of rail projects; providing for the administration and coordination of a state plan, including the distribution of federal subsidies; providing for investigation, research, promotion and development with public participation; authorizing the provision of fiscal assurances and adoption of accounting procedures necessary to continue subsidies; authorizing compliance with applicable federal regulations; authorizing all actions necessary to maximize federal assistance for rail subsidies; providing powers necessary to coordinate with the Maryland Transit Administration for continued operation in the state, including negotiation and contracting authority; providing that any commuter rail operation agreement will meet certain service standards; providing that any track access fees to be paid pursuant to the agreement shall be paid from the West Virginia Commuter Rail Access Fund; authorizing sale or transfer of interest in rail property with federal approval when required; authorizing assistance to entities seeking federal railroad service certification, including the provision of any necessary assurances or guarantees; authorizing division to retain attorney or others to title ownership of rail properties within the state; requiring rail properties offered for sale within the state to be offered first to the state; providing that division may acquire railroad rights in other states and may cooperate with other states in so purchasing any rail properties; providing for the division to give consideration to county or municipality interest in acquiring abandoned property interest and providing for the division to acquire any such abandoned property for subsequent conveyance to a county or municipality; authorizing the division to apply for and utilize federal funds or loans in carrying out its purposes of this article; authorizing the purchase of any railroad rolling stock, equipment and machinery necessary for the operation and maintenance of state rail properties and authorizing contracts with the Division of Highways for maintenance or purchase of vehicles; authorizing maintenance, rebuilding or relocation of state rail properties and authorizing expenditures for the modernization, rebuilding and relocation of any rail properties owned by the state or private carrier; providing for contracting with domestic or foreign entities to provide, maintain or improve rail transportation service on state rail properties; providing for transfer of rail properties to other entities within the state when permitted by the Governor; authorizing the

division to resolve conflicts when multiple entities want to utilize the same rail property; providing for proceeds from the sale of state rail property to be deposited in Railroad Maintenance Fund; terminating Railroad Maintenance Authority Fund and creating a Railroad Maintenance Fund for proceeds and expenditures related to division's purpose; authorizing expenditure from any fund for study of proposed rail projects and use of funds from Railroad Maintenance Fund for study and engineering costs; authorizing the issuance of railroad maintenance revenue bonds and notes for costs of rail projects, including issuance of renewal notes and bond refund, with aggregate amount of all issues of bonds and notes outstanding at one time not exceeding amount capable of being serviced by revenues received; providing that issues of bonds or notes are negotiable instruments and are obligations of the division and are payable out of the revenues which are pledged for such payment; providing for maturity date, terms of execution, sale, redemption and delivery; authorizing the establishment of various conditions necessary to secure sufficient funds to protect bonds or notes; providing that person executing bonds or notes is not personally liable therefor; providing for trust agreement to secure bonds issued by division and creating conditions therefor, not including mortgage of any rail project; allocating expenses of bond issuance or trust agreement to rail projects; providing for civil action for bondholders seeking to enforce rights granted; providing that bonds are payable from division revenues and are not a debt of state or political subdivision; restricting division from incurring debt on behalf of state or political subdivision; authorizing use of proceeds from bonds to carry out division's powers and prohibiting commingling with other funds; providing for the investment of excess funds by West Virginia State Board of Investments; authorizing division to collect rents or revenues for use of rail projects; providing for cooperation with other governmental agencies to effect acquisition of rail project or bond issuance; authorizing division to maintain rail projects in good repair; providing that railroad maintenance bonds are lawful investments for various entities; continuing West Virginia Commuter Rail Access Fund which is administered by division director; requiring division to establish a state rail plan that complies with federal requirements for funding; providing for specific duties related to aeronautics projects; authorizing division to advance development of aeronautics in cooperation with municipalities; authorizing rules necessary for public safety related to airports and aeronautics; providing for the expenditure of funds for various needs of Civil Air Patrol; authorizing division to fund grants for public airport authorities; authorizing division to receive federal funding to support airports or air navigation facilities; providing for procedures and conditions for use of federal funds; requiring a federal license to operate an aircraft; allowing for the use of state and municipal facilities and services; disposing of fees collected under this code section; and a severability clause.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 461 (originating in the Committee on Government Organization), Exempting WV State Police from state purchasing requirements.

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

Com. Sub. for Com. Sub. for Senate Bill 461 (originating in the Committee on Finance)—A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to exempting the West Virginia State Police from state purchasing requirements; requiring the Legislative Auditor to audit purchasing made by the West Virginia State Police and report the findings to the Joint Committee on Government and Finance; and requiring the West Virginia State Police report to the Joint Committee on Government and Finance on the effects of exempting said agency from state purchasing requirements.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 467, Removing restrictions on maximum wager per limited video lottery game and bill denominations accepted by video lottery terminals.

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

Com. Sub. for Senate Bill 467 (originating in the Committee on Finance)—A Bill to amend and reenact §29-22B-903 and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; and fixing the state's share of gross terminal income at fifty percent.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Natural Resources has had under consideration

Senate Bill 472, Permitting bear hunting with guides.

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

Com. Sub. for Senate Bill 472 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-22a, §20-2-23, §20-2-24 and §20-2-26 of the Code of West Virginia, 1931, as amended, all relating to outfitters and guides; setting forth license fees; creating special bear outfitter guide license for certain areas; clarifying when license may be issued; and making technical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 482, Relating generally to WV Parkways Authority.

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

Com. Sub. for Senate Bill 482 (originating in the Committee on Transportation and Infrastructure)—A Bill to repeal §17-16A-18a, §17-16A-23 and §17-16A-30 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-16A-1, §17-16A-5, §17-16A-6, §17-16A-10, §17-16A-11, §17-16A-13, §17-16A-13a, §17-16A-18, §17-16A-21, §17-16A-22 and §17-16A-29 of said code; to amend said code by adding thereto a new section, designated §17-16A-11a; to amend and reenact §17-16D-3 of said code; to amend said code by adding thereto a new section, designated §17A-2-25; to amend and reenact §17A-3-7 of said code; and to amend said code by adding thereto a new section, designated §17A-10-17, all relating generally to the West Virginia Parkways Authority; defining terms; adding the power of the authority to study, investigate and evaluate, and, if feasible, develop and implement, a single fee program; adding the power of the authority to impose in connection with any single fee program a flat fee in connection with any or all certificates of passenger motor vehicle registration and renewal thereof by the Division of Motor Vehicles; adding the power of the authority to enter into reciprocal toll enforcement agreements; creating and designating a special revenue account within the State Road Fund known as the State Road Construction Account; authorizing the deposit of proceeds of parkway revenue bonds to the State Road Construction Account; creating and designating a special revenue account within the State Treasury known as the West Virginia Parkways Authority Single Fee Program Fund; clarifying notice and public meeting requirements and procedures; clarifying the power of the Parkways Authority to fix rates or tolls for Corridor L toll collection facility; expanding the authority of the Parkways Authority to issue revenue bonds or refunding revenue bonds for parkways projects and for the West Virginia Turnpike; eliminating approval by county commissions and establishment by Governor of local committees prior to approval of any parkway project; authorizing electronic toll collection and enforcement of tolls on roads, highways and bridges; adding the power of the Division of Motor Vehicles to act as collection agent for the authority under any single fee program; expanding the grounds for refusing to register a motor vehicle; and creating a misdemeanor offense.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 482), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 499, Creating Debt Resolution Services Division in Auditor's office.

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

Com. Sub. for Senate Bill 499 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §14-1A-1, §14-1A-2 and §14-1A-3, all relating to creating the Debt Resolution Services Division within the Auditor's office; providing for powers and duties of the division; defining terms; providing for administration of division; authorizing the offset of a payment due to a vendor, contractor or taxpayer from the state to satisfy an outstanding obligation owed by them to the state; authorizing the administration of the United States Treasury Offset Program; providing for responsibilities of the State Tax Commissioner and spending units of the state; providing for the adoption of procedures, forms and agreements; and directing the deposit of moneys offset.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 521, Relating generally to Public Defender Services.

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

Com. Sub. for Senate Bill 521 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-21-2, §29-21-6, §29-21-8, §29-21-9 and §29-21-13a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-21-9a, all relating generally to Public Defender Services; transferring initial authority to review, approve, reduce or reject panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission of vouchers previously reduced or rejected; establishing protocol for handling of rejected or reduced vouchers; maintaining final authority over payment

vouchers with the appointing courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to establish conflict public defender corporations and establishing criteria therefor; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for legal services or specialized legal services in any circuit; authorizing Governor, by executive order, to borrow funds from the Revenue Shortfall Reserve Fund to pay appointed counsel and establishing repayment requirements; revising order of preference for the appointment of attorneys; and requiring panel attorneys to maintain time-keeping records on a daily basis.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 521), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 523, Converting to biweekly pay cycle for state employees.

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

Com. Sub. for Senate Bill 523 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §4-2A-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §11B-2-12 of said code; to amend and reenact §12-3-12a and §12-3-13b of said code; to amend and reenact §15-2-5 of said code; to amend and reenact §18-3-1 of said code; to amend and reenact §20-1-5 of said code; to amend and reenact §20-7-1 of said code; to amend and reenact §22C-1-4 of said code; to amend and reenact §24-1-3 of said code; to amend and reenact §24A-6-6 of said code; to amend and reenact §24B-5-2 of said code; to amend and reenact §25-1-19 of said code; to amend and reenact §31-19-4 of said code; to amend and reenact §33-2-2 of said code; to amend and reenact §50-1-8 and §50-1-9 of said code; to amend and reenact §51-7-3 and §51-7-5 of said code; to amend and reenact §51-8-2 of said code; and to amend and reenact §62-12-5 of said code, all relating to converting to a biweekly pay cycle from a monthly or semimonthly cycle for state employees; modifying pay cycle of members of the Legislature; submitting expenditure schedules to the Secretary of the Department of Revenue; modifying pay cycle of employees of the Higher Education Policy Commission, Council for Community and Technical College Education and institutions which they govern; modifying pay cycle of the West Virginia State Police; modifying pay cycle of the State Superintendent of Schools; modifying pay cycle of the Division of Natural Resources; modifying pay cycle of the Water Development Authority; modifying pay cycle of the Public Service Commission; modifying pay cycle of the Division of Corrections; modifying pay cycle of West Virginia Community Infrastructure Authority; modifying pay cycle of the Insurance Commissioner; modifying pay cycle of magistrate courts; modifying pay cycle of official court reporters; modifying pay cycle of state law librarian and assistants; and modifying pay cycle of probation officers and clerical assistants.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 533, Relating to taxes on wine and intoxicating liquors.

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

Com. Sub. for Senate Bill 533 (originating in the Committee on Finance)—A Bill to amend and reenact §8-13-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; and to amend and reenact §60-4-3b of said code, all relating to the collection of taxes on wine and intoxicating liquors; providing that no wine or liquor excise tax shall be collected on purchases of wine or intoxicating liquors in the original sealed package for the purpose of resale, if the final purchase of such wine or intoxicating liquor is subject to the excise tax; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 572, Relating to nonpartisan election of county surveyors.

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

Com. Sub. for Senate Bill 572 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended, to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-1 and §3-10-8 of said code; and to amend said code by adding thereto a new section, designated §3-10-8a, all relating to providing for the nonpartisan election of county surveyors; providing that county surveyors are to be elected on a nonpartisan basis beginning with the general election of 2020; clarifying ballot placement for nonpartisan election for county surveyor; clarifying ballot heading for nonpartisan election for county surveyor; and specifying manner of appointment of a successor when an elected county surveyor vacates office.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 585, Relating to locomotive crew size.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 595, Allowing county assessors make separate entries in land books when real property is partly used for exempt and partly nonexempt purposes.

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

Respectfully submitted,

Mike Hall,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles and referred to the appropriate committees:

By Senators Takubo and Stollings:

Senate Bill 670—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4 and §16-5Z-5, all relating to establishing the West Virginia Advisory Council on Rare Diseases; setting forth its composition; establishing terms of members; defining terms; establishing the powers and duties of the council; setting forth duties of the Secretary of the Department of Health and Human Resources; and setting a sunset date.

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

By Senator Mann:

Senate Bill 671—A Bill to amend and reenact §18B-4-8 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Anatomical Board; defining “board” to include the board of directors of West Virginia Anatomical Board; providing that the board members consist of the deans of the Marshall University School of Medicine, the West Virginia School of Osteopathic Medicine, the West Virginia University School of Medicine and the West Virginia University School of Dentistry; clarifying that the board is being reestablished and continued under the authority of the commission and is subject to the commission’s rule-making authority; clarifying that the title “commission” is referring to the Higher Education Policy Commission; removing requirement that all dead human bodies that are buried at the public’s expense to be delivered to the board; removing the penalties and bond requirements incurred with failing to deliver said bodies to the board; clarifying that the board is able to receive and refuse dead human bodies for educational uses and purposes of higher education institutions at the board’s discretion; clarifying that members of the board are not to receive any compensation for services rendered in their capacity; and clarifying that the board shall operate consistent with the Anatomical Gift Act.

Referred to the Committee on Government Organization.

By Senators Stollings and Prezioso:

Senate Bill 672—A Bill to amend and reenact §16-45-3 of the Code of West Virginia, 1931, as amended, relating to prohibiting the use of a tanning device by a person under the age of eighteen.

Referred to the Committee on Health and Human Resources.

By Senators Karnes, Boso and Sypolt:

Senate Bill 673—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all relating to providing a procedure for West Virginia to select delegates to an Article V Convention for proposing amendments to the Constitution of the United States; defining terms; setting forth delegate duties and responsibilities; and providing a felony criminal penalty for violation of a delegate’s oath.

Referred to the Committee on the Judiciary.

By Senator Boso:

Senate Bill 674—A Bill to amend and reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9 and §18-9A-10 of the Code of West Virginia, 1931, as amended, all relating to public school support; including treasurer/chief school business official and child nutrition director as professional educator for funding purposes only; deleting required periodic legislative review of adjustments in net enrollment; determining allowance for fundable professional educators at set ratio, rather than the number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; deleting expired provisions; basing minimum professional instructional personnel required on percent of employed fundable professional educators; providing for prorating professional instructional personnel among participating counties in joint school or program or service; removing penalty for not meeting applicable professional instructional personnel ratio for 2017-2018 school year; deleting expired provisions; deleting required periodic legislative review of density category ratios; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation

of teachers retirement fund allowance; basing teachers retirement fund allowance on average retirement contribution rate of each county and defining “average rate”; allowing limited portion of funds for bus purchases to be used for facility and equipment repair maintenance and improvement or replacement or other current expense priorities if requested and approved by state superintendent following verification; changing calculation of allowance for current expense from percent allowances for professional and service personnel to county’s state average costs per square footage per student for operations and maintenance; removing authorization for use of instructional improvement funds for implementation and maintenance of regional computer information system; removing requirement for fully utilizing applicable provisions of allowances for professional and service personnel before using instructional improvement funds for employment; removing restriction limiting use of new instructional improvement funds for employment except for technology system specialists until certain determination made by state superintendent; authorizing use of instructional technology improvement funds for employment of technology system specialists and requiring amount used to be included and justified in strategic technology plan; specifying when certain debt service payments are to be made into school building capital improvement fund; authorizing use of percentages of allocations for improving instructional programs; improving instructional technology for facility and equipment repair and maintenance or replacement and other current expense priorities and for emergency purposes; and requiring amounts used to be included and justified in respective strategic plans.

Referred to the Committee on Education.

By Senators Takubo, Stollings, Carmichael (Mr. President), Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld and Woelfel:

Senate Bill 675—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-7A-12, relating to providing rulemaking authority to the Board of Licensed Practical Nurses regarding agreements with organizations to form recovery networks; and creating an alcohol or chemical dependency treatment program.

Referred to the Committee on the Judiciary.

By Senators Karnes and Boso:

Senate Bill 676—A Bill to amend and reenact §29-3E-10 of the Code of West Virginia, 1931, as amended, relating to fireworks safety; and prohibiting counties from regulating the sale and use of consumer fireworks within their boundaries.

Referred to the Committee on Government Organization.

By Senators Takubo and Stollings:

Senate Bill 677—A Bill to amend and reenact §11-17-3 and §11-17-4b of the Code of West Virginia, 1931, as amended, all relating to increasing the tax rate on cigarettes and e-cigarettes liquid; and specifying the effective date for the increase.

Referred to the Committee on Finance.

By Senator Miller:

Senate Bill 678—A Bill to repeal §11-17-4b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15-3d, relating to tax on sales of e-cigarette liquid.

Referred to the Committee on Finance.

By Senators Smith, Blair, Facemire, Prezioso and Sypolt:

Senate Bill 679—A Bill to amend and reenact §22-30-3 of the Code of West Virginia, 1931, as amended, relating to the definition of “above ground storage tanks”; and excluding certain tanks holding oil, brine or other fluids used in hydrocarbon and mineral extraction.

Referred to the Committee on Energy, Industry and Mining.

By Senators Sypolt and Boso:

Senate Bill 680—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §22C-9-6a and §22C-9-7a, all relating to permitting surface owners to seek damages resulting from oil and gas operations through the Oil and Gas Conservation Commission; permitting leaseholders to unitize drilling interests regardless of the type of well to be drilled; and requiring rulemaking.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Boso:

Senate Bill 681—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-6-42, all relating to requiring the Secretary of the Department of Environmental Protection to work with the State Tax Commissioner, the Public Service Commission and county assessors to develop a system for verifying production information submitted by an oil or gas producer in connection with the producer’s severance tax returns and other production reports; and requiring the cooperation of persons submitting the reports.

Referred to the Committee on Government Organization.

By Senators Blair and Boso:

Senate Bill 682—A Bill to amend and reenact §11-10-11c of the Code of West Virginia, 1931, as amended, relating to the state administration of local sales and use taxes.

Referred to the Committee on Government Organization.

By Senators Jeffries, Miller, Beach, Facemire, Ojeda, Plymale and Romano:

Senate Bill 683—A Bill to amend and reenact §11-12-75 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3 and §11-15-8 of said code; to amend said code by adding thereto two new sections, designated §11-15-3d and §11-15-3e; to amend and reenact §11-15A-2 of said code; to amend and reenact §11-21-4e, §11-21-12 and §11-21-16 of said code; to amend said code by adding thereto a new section, designated §11-21-22d; and to amend and reenact §11-24-4 of said code, all relating to taxation to enact a fiscally responsible state budget; increasing the tax on corporations holding more than ten thousand acres of land and making it an annual assessment; increasing the rate of the consumers sales and service tax; increasing the rate of the use tax; providing effective dates for those rate changes; changing the words “six percent” to the current consumers sales and service tax rate or use tax rate where those terms are used under certain sections of chapter eleven of the code; imposing the consumers sales tax on telecommunications service and ancillary services; imposing the consumers sales and service tax on the sale of certain digital goods; imposing the consumer sales and service tax on personal services; adjusting the personal income tax rates to lower rates on taxable income between \$10,000 and \$150,000 for joint filers and between \$5,000 and \$75,000 for individuals filing separate returns; creating new personal income tax rates for higher earners; exempting Social Security benefits from the personal income tax if the taxpayer’s total taxable income is below

\$50,000; amending the West Virginia exemption for residents such that it is reduced for residents with more than \$100,000 in West Virginia taxable income; exempting all monetary benefits derived from military retirement from personal income tax obligations; creating West Virginia Earned Income Tax Credit; authorizing a refundable tax credit based upon the federal Earned Income Tax Credit; determining eligibility for the credit; determining amount of the credit; authorizing rule-making authority; replacing the flat corporate net income tax rate with a tiered rate that is consistent with the personal income tax rates, thereby reducing the tax rate for businesses with lower annual income and increasing the tax rate for higher earning businesses; and setting forth effective dates.

Referred to the Committee on Finance.

Senators Carmichael (Mr. President), Boso, Stollings and Plymale offered the following resolution:

Senate Resolution 42—Designating March 20, 2017, as International Pageant Day in West Virginia.

Whereas, Charleston, West Virginia, will play host to the Miss, Miss Teen and Mrs. International Pageants for three consecutive years beginning in 2017; and

Whereas, Mary C. Richardson, the executive director, is a West Virginia native who is excited to bring this event to her home state; and

Whereas, The West Virginia Division of Culture and History, the Charleston Convention and Visitors Bureau and the Clay Center are partners in the events; and

Whereas, The economic impact of this partnership will be \$1.7 million for the city of Charleston; and

Whereas, The pageant participants, their families and friends will have the opportunity to experience some of West Virginia's finest tourism opportunities; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 20, 2017, as International Pageant Day in West Virginia; and, be it

Further Resolved, That the Senate is proud of the State of West Virginia for hosting this event for the next three years and extends a special welcome to the participants and their families; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Division of Culture and History, the Charleston Convention and Visitors Bureau and the Clay Center.

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

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 Gaunch, Ferns, Karnes, Romano, Cline, Sypolt, Swope, Boso, Stollings, Plymale and Prezioso offered the following resolution:

Senate Resolution 43—Recognizing West Virginia native Homer Hickam, United States Army veteran, famed author and dedicated public servant.

Whereas, Homer H. Hickam, Jr., was born on February 19, 1943, the son of Homer and Elsie Hickam, and was raised in Coalwood, West Virginia; and

Whereas, Homer Hickam graduated from Big Creek High School in 1960 and from the Virginia Polytechnic Institute in 1964 with a Bachelor of Science degree in Industrial Engineering; and

Whereas, Homer Hickam served our country as a First Lieutenant in the Fourth Infantry Division in Vietnam in 1967-1968, where he was awarded the Army Commendation and Bronze Star medals. Mr. Hickam served six years on active duty, leaving the service with the rank of Captain; and

Whereas, After returning from his service in Vietnam, Homer Hickam began his writing career in 1969. His first book, *Torpedo Junction* (1989), was a military history best seller published in 1989 by the Naval Institute Press; and

Whereas, Homer Hickam is a New York Times #1 best-selling author of several books that bring honor to the great State of West Virginia and its citizens, including, *The Coalwood Way*, *Sky of Stone*, *We Are Not Afraid*, *Red Helmet*, his latest international best seller, *Carrying Albert Home* and his classic, *Rocket Boys*, which is one of the most read books in the United States school system and was the basis for the major motion picture *October Sky*; and

Whereas, In addition to his career as an author, Homer Hickam was employed as an engineer for the U. S. Army Missile Command from 1971 to 1981 assigned to Huntsville, Alabama, and Germany. He began employment with the National Aeronautics and Space Administration at Marshall Space Flight Center in 1981 as an aerospace engineer. During his NASA career, Mr. Hickam worked in spacecraft design and crew training. His specialties at NASA included training astronauts on science payloads and extravehicular activities. He also trained astronaut crews for many Spacelab and Space Shuttle missions, including the Hubble Space Telescope deployment mission, the first two Hubble repair missions, Spacelab-J (the first Japanese astronauts), and the Solar Max repair mission. Prior to his retirement in 1998, Mr. Hickam was the Payload Training Manager for the International Space Station Program; and

Whereas, Homer Hickam is the recipient of the Appalachian Heritage Writer's Award for his memoirs and fiction, holds an honorary Doctorate of Literature from Marshall University and is a proud Knight of the Golden Horseshoe, which demonstrates his knowledge of West Virginia history; and

Whereas, From growing up in McDowell County, West Virginia, to the present day, Homer Hickam has had many amazing life experiences, including carrying the Olympic torch, teaching David Letterman to scuba dive, flying with General Chuck Yeager and training NASA astronauts for SpaceLab and SkyLab missions; and

Whereas, Homer Hickam returns to West Virginia each year where he participates in the annual Rocket Boys Festival held in Beckley and has supported this, and various other charitable endeavors, through the years for West Virginia; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes West Virginia native Homer Hickam, United States Army veteran, famed author and dedicated public servant; and, be it

Further Resolved, That the Senate hereby extends its sincere gratitude and appreciation to Homer Hickam for representing and promoting the great State of West Virginia at his numerous personal and media appearances all over the world; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Homer Hickam.

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

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Ferns, and by unanimous consent, returned to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 684 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia State Police, generally; and correcting agency referrals and code citations relating to the West Virginia State Police.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 43, Eugene Lee “Gene” Burner Memorial Bridge.

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

Senate Concurrent Resolution 44, Tug Valley Students Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 290, Authorizing operators of distillery or mini-distillery offer for purchase and consumption of liquor on Sundays.

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

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Clements, Cline, Ferns, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—28.

The nays were: Azinger, Gaunch, Ojeda and Smith—4.

Absent: Facemire and Romano—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 290) passed with its title.

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

Eng. Senate Bill 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation.

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, Miller, Mullins, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: Ojeda—1.

Absent: Facemire and Romano—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 608) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: Ojeda—1.

Absent: Facemire and Romano—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 608) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 27, Relating to microprocessor permit.

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

Com. Sub. for Senate Bill 36, Permitting school nurses to possess and administer opioid antagonists.

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

Com. Sub. for Senate Bill 216, Permitting exclusion, modification or limitation of warranties in sale of used motor vehicles.

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

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

On page four, section one hundred seven-b, after line thirty-seven, by inserting a new subsection, designated subsection (e), to read as follows:

(e) Motor vehicles offered for sale as-is may not constitute more than twenty-five percent of a dealer's inventory offered for sale to the general public.

Following discussion,

Senator Maynard requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43, as he is in the pre-owned car business.

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

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

The bill (Com. Sub. for S. B. 216), was then ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act.

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

Com. Sub. for Com. Sub. for Senate Bill 341, Establishing WV business growth in low-income communities tax credit.

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

Senate Bill 468, Removing restrictions on where traditional lottery games may be played.

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

Com. Sub. for Senate Bill 480, Authorizing local government adopt energy efficiency partnership programs.

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

Senate Bill 547, Modifying fees paid to Secretary of State.

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

Com. Sub. for Senate Bill 548, Providing for specific escheat of US savings bonds.

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

Senate Bill 564, Relating to Statewide Independent Living Council.

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

Eng. House Bill 2300, Regulating step therapy protocols.

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

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

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

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

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

ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-3. Definitions.

For the purpose of this article:

~~“Court” means the state Court of Claims established by section four of this article.~~

“Commission” means the West Virginia Legislative Claims Commission established by section four of this article.

“Claim” means a claim authorized to be heard by the ~~court~~ commission in accordance with this article.

“Approved claim” means a claim found by the ~~court~~ commission to be one that should be paid under the provisions of this article.

“Award” means the amount recommended by the ~~court~~ commission to be paid in satisfaction of an approved claim.

“Clerk” means the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

“State agency” means a state department, board, commission, institution, or other administrative agency of state government: *Provided*, That a “state agency” shall not be considered to include county ~~courts~~ commissions, county boards of education, municipalities, or any other political or local subdivision of the state regardless of any state aid that might be provided.

§14-2-4. Creation of Court of Claims Court of Claims to be continued and renamed the West Virginia Legislative Claims Commission; appointment and terms of judges commissioners; vacancies.

The “Court of Claims” is hereby ~~created~~ renamed the West Virginia Legislative Claims Commission. It shall consist of three ~~judges~~ commissioners, to be appointed by the President of the Senate and the Speaker of the House of Delegates, ~~by and with the advice and consent of the Senate~~, one of whom shall be appointed presiding ~~judge~~ commissioner. The judges of the Court of Claims sitting on the effective date of the amendments to this article enacted during the 2017 Regular Session of the Legislature will continue their existing terms as commissioners. Each appointment to the ~~court~~ commission shall be made from a list of three qualified nominees furnished by the Board of Governors of the West Virginia State Bar. The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any commissioner appointed under this section at any time.

The terms of the ~~judges of this court~~ commissioners shall be six years. ~~except that the first members of the court commission shall be appointed as follows: One judge for two years, one judge for four years and one judge for six years. As these appointments expire, all appointments shall be for six-year terms~~ Not more than two of the ~~judges~~ commissioners shall be of the same political party. An appointment to fill a vacancy shall be for the unexpired term.

§14-2-4a. Interim judges commissioners.

(a) If at any time two or more of the ~~judges~~ commissioners appointed under section four of this article are temporarily unable, due to illness or other incapacity, to perform their responsibilities the President of the Senate and the Speaker of the House of Delegates may appoint one or two interim ~~judges~~ commissioners to serve under the conditions specified in this section.

(b) Appointments made under this section are temporary. An interim ~~judge~~ commissioner serves under this section until the ~~judge~~ commissioner for whom the interim ~~judge~~ commissioner

is temporarily replacing can resume his or her duties. In no event may the interim judge commissioner serve for more than three months unless reappointed.

(c) Appointments made under this section shall be made from a list furnished to the President of the Senate and the Speaker of the House of Delegates by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall annually, on or before January 15, submit a list of twenty qualified nominees. ~~In two thousand four, the list shall be submitted before April 1~~

(d) An interim judge commissioner:

(1) Is entitled to the same compensation and expense reimbursement a judge commissioner is entitled to under the provisions of section eight of this article;

(2) Shall take the oath of office as required in section nine of this article;

(3) Has all the authority given to a judge commissioner under this article; and

(4) Is required to possess the qualifications required of a judge commissioner in section ten of this article.

(e) The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any interim judge commissioner appointed under this section at any time.

§14-2-5. Court Commission clerk and other personnel.

~~The court~~ The President of the Senate and the Speaker of the House of Delegates may appoint a clerk, chief deputy clerk and deputy clerks. The salaries of the clerk, the chief deputy clerk and the deputy clerks shall be fixed by the Joint Committee on Government and Finance, and shall be paid out of the regular appropriation for the court commission. The clerk shall have custody of and maintain all records and proceedings of the court commission, shall attend meetings and hearings of the court commission, shall administer oaths and affirmations and shall issue all official summonses, subpoenas, orders, statements and awards. The chief deputy clerk or another deputy clerk shall act in the place and stead of the clerk in the clerk's absence.

~~The Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates may employ other persons whose services are necessary to the orderly transaction of the business of the court commission and fix their compensation.

§14-2-7. Meeting place of the court commission.

The regular meeting place of the court commission shall be at the State Capitol, and the Joint Committee on Government and Finance shall provide adequate quarters therefor. ~~When deemed advisable,~~ In order to facilitate the full hearing of claims arising elsewhere in the state, the court commission may convene at any county seat or other location in the state, including a correctional institution: *Provided*, That the court commission will make reasonable efforts to meet in appropriate public or private buildings in keeping with the dignity and decorum of the State.

§14-2-8. Compensation of judges commissioners; expenses.

Each ~~judge of the court~~ commissioner shall receive \$210 for each day actually served and expenses incurred in the performance of his or her duties paid at the same per diem rate as members of the Legislature: *Provided*, That the ~~chief judge~~ presiding commissioner shall receive an additional \$50 for each day actually served. In addition to the expense per diem, each commissioner may, when using his or her own vehicle, be reimbursed for mileage. ~~at the mileage rate equal to the amount paid by the travel management office of the Department of Administration~~ The number of days served by each judge commissioner shall not exceed one hundred twenty in any fiscal year, except by authority of the ~~Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates: *Provided*, That in computing the number of days served, days utilized solely for the exercise of duties assigned to ~~judges and commissioners~~ by this article and the provisions of article two-a of this chapter shall be disregarded. For the purpose of this section, time served shall include time spent in the hearing of claims, in the consideration of the record, in the preparation of opinions and in necessary travel.

§14-2-9. Oath of office.

Each judge commissioner shall before entering upon the duties of his or her office, take and subscribe to the oath prescribed by section 5, article IV of the Constitution of the State. The oath shall be filed with the clerk.

§14-2-10. Qualifications of judges commissioners.

Each judge commissioner appointed to the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall be an attorney at law, licensed to practice in this state, and shall have been so licensed to practice law for a period of not less than ten years prior to his or her appointment as judge commissioner. A judge commissioner shall not be an officer or an employee of any branch of state government, except in his or her capacity as a member of the ~~court commission~~ and shall receive no other compensation from the state or any of its political subdivisions. A judge commissioner shall not hear or participate in the consideration of any claim in which he or she is interested personally, either directly or indirectly.

§14-2-11. Attorney General to represent state.

Unless expressly exempted in the code, the Attorney General shall represent the interests of the State in all claims coming before the ~~court commission~~.

§14-2-12. General powers of the ~~court~~ commission.

The ~~court~~ commission shall, in accordance with this article, consider claims which, but for the Constitutional immunity of the state from suit, or for some statutory restrictions, inhibitions or limitations, could be maintained in the regular courts of the state. No liability shall be imposed upon the state or any state agency by a determination of the ~~Court of Claims~~ commission approving a claim and recommending an award, unless the claim is: (1) Made under an existing appropriation, in accordance with section nineteen of this article; or (2) a claim under a special appropriation, as provided in section twenty of this article. The ~~court~~ commission shall consider claims in accordance with the provisions of this article.

Except as is otherwise provided in this article, a claim shall be instituted by the filing of notice with the clerk. In accordance with rules promulgated by the ~~court~~ commission, each claim shall

be considered by the ~~court~~ commission as a whole, or by a ~~judge~~ commissioner sitting individually, and if, after consideration, the ~~court~~ commission finds that a claim is just and proper, it shall so determine and shall file with the clerk a brief statement of its reasons. A claim so filed shall be an approved claim. The ~~court~~ commission shall also determine the amount that should be paid to the claimant, and shall itemize this amount as an award, with the reasons therefor, in its statement filed with the clerk. In determining the amount of a claim, interest shall not be allowed unless the claim is based upon a contract which specifically provides for the payment of interest.

§14-2-13. Jurisdiction of the ~~court~~ commission.

The jurisdiction of the ~~court~~ commission, except for the claims excluded by section fourteen, shall extend to the following matters:

(1) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state or any of its agencies, which the state as a sovereign commonwealth should in equity and good conscience discharge and pay; and

(2) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, which may be asserted in the nature of set-off or counterclaim on the part of the state or any state agency.

§14-2-14. Claims excluded.

The jurisdiction of the ~~court~~ commission shall not extend to any claim:

1. For loss, damage, or destruction of property or for injury or death incurred by a member of the militia or National Guard when in the service of the state.

2. For a disability or death benefit under chapter twenty-three of this code.

3. For unemployment compensation under chapter twenty-one-a of this code.

4. For relief or public assistance under chapter nine of this code.

5. With respect to which a proceeding may be maintained against the state, by or on behalf of the claimant in the courts of the state.

§14-2-15. Rules of practice and procedure.

The ~~court~~ commission shall adopt and may from time to time amend rules of procedure, in accordance with the provisions of this article, governing proceedings before the ~~court~~ commission. Rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims. Rules shall permit a claimant to appear in his or her own behalf or be represented by counsel.

Discovery may be used in a case pending before the ~~court~~ commission in the same manner that discovery is conducted pursuant to the Rules of Civil Procedure for trial courts of record, Rules 26 through 36. The ~~court~~ commission may compel discovery and impose sanctions for a failure to make discovery, in the same manner as a court is authorized to do under the provisions of Rule 37 of the Rules of Civil Procedure for trial courts of record: *Provided*, That the ~~Court of Claims~~ commission shall not find a person in contempt for failure to comply with an order compelling discovery.

The ~~court~~ commission, upon its own motion or upon motion of a party, may strike a pleading, motion or other paper which: (1) Is not well-grounded in fact; (2) is not warranted by existing law, or is not based on a good faith argument for the extension, modification, or reversal of existing law; or (3) is interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in costs. An order striking a pleading, motion, or paper may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2-16. Regular procedure.

The regular procedure for the consideration of claims shall be substantially as follows:

(1) The claimant shall give notice to the clerk that he or she desires to maintain a claim. Notice shall be in writing and shall be in sufficient detail to identify the claimant, the circumstances giving rise to the claim, and the state agency concerned, if any. The claimant shall not otherwise be held to any formal requirement of notice.

(2) The clerk shall transmit a copy of the notice to the state agency concerned. The state agency may deny the claim, or may request a postponement of proceedings to permit negotiations with the claimant. If the ~~court~~ commission finds that a claim is prima facie within its jurisdiction, it shall order the claim to be placed upon its regular docket for hearing.

(3) During the period of negotiations and pending hearing, the state agency, represented by the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts an attempt shall be made to stipulate the questions of fact in issue.

(4) The ~~court~~ commission shall so conduct the hearing as to disclose all material facts and issues of liability and may examine or cross-examine witnesses. The ~~court~~ commission may call witnesses or require evidence not produced by the parties; the ~~court~~ commission may call expert witnesses and compensate those experts for their services in an amount not to exceed \$3,500 per expert; the ~~court~~ commission may stipulate the questions to be argued by the parties; and the ~~court~~ commission may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(5) After the close of the hearing the ~~court~~ commission shall consider the claim and shall conclude its determination, if possible, within sixty days.

§14-2-17. Shortened procedure.

The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

1. The claim does not arise under an appropriation for the current fiscal year.

2. The state agency concerned concurs in the claim.
3. The amount claimed does not exceed ~~\$1,000~~ \$3,000.
4. The claim has been approved by the Attorney General as one that, in view of the purposes of this article, should be paid.

The state agency concerned shall prepare the record of the claim consisting of all papers, stipulations and evidential documents required by the rules of the ~~court~~ commission and file the same with the clerk. The ~~court~~ commission shall consider the claim informally upon the record submitted. If the ~~court~~ commission determines that the claim should be entered as an approved claim and an award made, it shall so order and shall file its statement with the clerk. If the ~~court~~ commission finds that the record is inadequate, or that the claim should not be paid, it shall reject the claim. The rejection of a claim under this section shall not bar its resubmission under the regular procedure.

§14-2-19. Claims under existing appropriations.

A claim arising under an appropriation made by the Legislature during the fiscal year to which the appropriation applies, and falling within the jurisdiction of the ~~court~~ commission, may be submitted by:

1. A claimant whose claim has been rejected by the state agency concerned or by the State Auditor.
2. The head of the state agency concerned in order to obtain a determination of the matters in issue.
3. The State Auditor in order to obtain a full hearing and consideration of the merits.

When such submittal is made, the clerk shall give a copy of the submittal to the Joint Committee on Government and Finance. If the Joint Committee on Government and Finance shall so direct, the clerk shall place such claim on its docket. Upon its placement on the docket, the regular procedure, so far as applicable, shall govern the consideration of the claim by the ~~court~~ commission. If the ~~court~~ commission finds that the claimant should be paid, it shall certify the approved claim and award to the head of the appropriate state agency, the State Auditor and to the Governor. The Governor may thereupon instruct the Auditor to issue his or her warrant in payment of the award and to charge the amount thereof to the proper appropriation. The Auditor shall forthwith notify the state agency that the claim has been paid. Such an expenditure shall not be subject to further review by the Auditor upon any matter determined and certified by the ~~court~~ commission.

§14-2-20. Claims under special appropriations.

Whenever the Legislature makes an appropriation for the payment of claims against the state, then accrued or arising during the ensuing fiscal year, the determination of claims and the payment thereof may be made in accordance with this section. However, this section shall apply only if the Legislature in making its appropriation specifically so provides and only after specific direction to hear the claim is given by the Joint Committee on Government and Finance.

The claim shall be considered and determined by the regular or shortened procedure, as the case may be, and the amount of the award shall be fixed by the ~~court~~ commission. The clerk shall certify each approved claim and award, and requisition relating thereto, to the Auditor. The Auditor thereupon shall issue his or her warrant to the Treasurer in favor of the claimant. The Auditor shall issue his or her warrant without further examination or review of the claim except for the question of a sufficient unexpended balance in the appropriation.

§14-2-21. Periods of limitation made applicable.

The ~~court~~ commission shall not take jurisdiction of any claim, whether accruing before or after the effective date of this article (July 1, 1967), unless notice of such claim be filed with the clerk within such period of limitation as would be applicable under the pertinent provisions of the Code of West Virginia, 1931, as amended, if the claim were against a private person, firm or corporation and the Constitutional immunity of the state from suit were not involved and such period of limitation may not be waived or extended. The foregoing provision shall not be held to limit or restrict the right of any person, firm or corporation who or which had a claim against the state or any state agency, pending before the Attorney General on the effective date of this article (July 1, 1967), from presenting such claim to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, nor shall it limit or restrict the right to file such a claim which was, on the effective date of this article (July 1, 1967), pending in any court of record as a legal claim and which, after such date was or may be adjudicated in such court to be invalid as a claim against the state because of the Constitutional immunity of the state from suit.

§14-2-22. Compulsory process.

In all hearings and proceedings before the ~~court~~ commission, the evidence and testimony of witnesses and the production of documentary evidence may be required. Subpoenas may be issued by the ~~court~~ commission for appearance at any designated place of hearing. In case of disobedience to a subpoena or other process, the ~~court~~ commission may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses, and the production of books, papers and documents. Upon proper showing, the circuit court shall issue an order requiring witnesses to appear before the ~~Court of Claims~~ West Virginia Legislative Claims Commission; produce books, papers and other evidence; and give testimony touching the matter in question. A person failing to obey the order may be punished by the circuit court as for contempt.

§14-2-23. Inclusion of awards in budget.

The clerk shall certify to the department of finance and administration, on or before November 20, of each year, a list of all awards recommended by the ~~court~~ commission to the Legislature for appropriation. The clerk may certify supplementary lists to the Governor to include subsequent awards made by the ~~court~~ commission. The Governor shall include all awards so certified in his or her proposed budget bill transmitted to the Legislature. Any other provision of this article or of law to the contrary notwithstanding, the clerk shall not certify any award which has been previously certified.

§14-2-24. Records to be preserved.

The record of each claim considered by the ~~court~~ commission, including all documents, papers, briefs, transcripts of testimony and other materials, shall be preserved by the clerk for a period of ten years from the date of entry of the ~~court's~~ commission's last order and shall be made available to the Legislature or any committee thereof for the reexamination of the claim. When

any such documents, papers, briefs, transcripts and other materials have been so preserved by the clerk for such ten-year period, the same shall be transferred to the state records administrator for preservation or disposition in accordance with the provisions of article eight, chapter five-a of this code without cost, either to the ~~court~~ court commission or the Legislature.

§14-2-25. Reports of the ~~court~~ court commission.

The clerk shall be the official reporter of the ~~court~~ court commission. He or she shall collect and edit the approved claims, awards and statements, shall prepare them for submission to the Legislature in the form of an annual report and shall prepare them for publication.

Claims and awards shall be separately classified as follows:

(1) Approved claims and awards not satisfied but referred to the Legislature for final consideration and appropriation.

(2) Approved claims and awards satisfied by payments out of regular appropriations.

(3) Approved claims and awards satisfied by payment out of a special appropriation made by the Legislature to pay claims arising during the fiscal year.

(4) Claims rejected by the ~~court~~ court commission with the reasons therefor.

The ~~court~~ court commission may include any other information or recommendations pertaining to the performance of its duties.

The ~~court~~ court commission shall transmit its annual report to the presiding officer of each house of the Legislature, and a copy shall be made available to any member of the Legislature upon request therefor. The reports of the ~~court~~ court commission shall be published biennially by the clerk as a public document. The biennial report shall be filed with the clerk of each house of the Legislature, the Governor and the Attorney General.

§14-2-26. Fraudulent claims.

A person who knowingly and willfully presents or attempts to present a false or fraudulent claim, or a state officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent claim, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of violation of this section shall be fined not more than \$1,000 or ~~imprisoned~~ confined for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2-27. Conclusiveness of determination.

Any final determination against the claimant on any claim presented as provided in this article shall forever bar any further claim in the ~~court~~ court commission arising out of the rejected claim

§14-2-28. Award as condition precedent to appropriation.

(a) It is the policy of the Legislature to make no appropriation to pay any claims against the state, cognizable by the ~~court~~ court commission, unless the claim has first been passed upon by the ~~court~~ court commission.

(b) Because a decision of the ~~court~~ commission is a recommendation to the Legislature based upon a finding of moral obligation, and the enactment process of passage of legislation authorizing payments of claims recommended by the ~~court~~ commission is at legislative discretion, no right of appeal exists to findings and award recommendations of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and they are not subject to judicial review.

ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.

§14-2A-5. Jurisdiction.

Any judge commissioner of the ~~Court of Claims~~ West Virginia Legislative Claims Commission individually, or the ~~Court of Claims~~ West Virginia Legislative Claims Commission en banc, ~~or any Court of Claims commissioner appointed pursuant to section six of this article,~~ shall have jurisdiction to approve awards of compensation arising from criminally injurious conduct, in accordance with the provisions of this article, if satisfied by a preponderance of the evidence that the requirements for an award of compensation have been met.

§14-2A-6. ~~Appointment and Compensation of commissioners and judges serving under this article.~~

(a) ~~The Court of Claims with the approval of the President of the Senate and the Speaker of the House of Delegates, may appoint Court of Claims commissioners to hear claims for awards of compensation and to approve awards of compensation pursuant to the provisions of this article. Each commissioner shall serve at the pleasure of the Court of Claims and under the supervision of the judges of the Court of Claims.~~

(b) ~~The Court of Claims shall fix the compensation of the Court of Claims commissioners in an amount not exceeding the compensation for judges of the Court of Claims Compensation of judges and commissioners for services performed under this article, and actual expenses incurred in the performance of duties as judges and commissioners under this article, shall be paid out of the crime victims compensation fund.~~

(c) ~~The limitation period of one hundred days in section eight, article two of this chapter pertaining to time served by the judges of the Court of Claims shall not apply to the provisions of this article.~~

§14-2A-9. Claim investigators; compensation and expenses; paralegals and support staff.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire not more than four claim investigators to be employed within the ~~Office of the clerk of the State~~ West Virginia Legislative Claims Commission, who shall carry out the functions and duties set forth in section twelve of this article. Claim investigators shall serve at the pleasure of the ~~Court of Claims~~ President of the Senate and the Speaker of the House of Delegates and under the administrative supervision of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The compensation of claim investigators shall be fixed by the ~~court~~ President of the Senate and the Speaker of the House of Delegates, and such compensation, together with travel, clerical and other expenses of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission relating to a claim investigator carrying out his or her duties under this article, including the cost of obtaining reports required by the investigator in investigating a claim, shall

be payable from the crime victims compensation fund as appropriated for such purpose by the Legislature.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire as support staff such paralegal or paralegals and secretary or secretaries to be employed within the ~~Office of the Clerk of the Court of Claims~~ West Virginia Legislative Claims Commission, necessary to carry out the functions and duties of this article. Such support staff shall serve at the will and pleasure of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and under the administrative supervision of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-10. Filing of application for compensation award; contents.

(a) A claim for an award of compensation shall be commenced by filing an application for an award of compensation with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The application shall be in a form prescribed by the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and shall contain the information specified in subdivisions (1) through (6) of this subsection and, to the extent possible, the information in subdivisions (7) through (10) of this subsection:

(1) The name and address of the victim of the criminally injurious conduct, the name and address of the claimant and the relationship of the claimant to the victim;

(2) The nature of the criminally injurious conduct that is the basis for the claim and the date on which the conduct occurred;

(3) The law-enforcement agency or officer to whom the criminally injurious conduct was reported and the date on which it was reported;

(4) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(5) A release authorizing the ~~Court of Claims, the Court of Claims commissioners~~ West Virginia Legislative Claims Commission and the claim investigator to obtain any report, document or information that relates to the determination of the claim for an award of compensation;

(6) If the victim is deceased, the name and address of each dependent of the victim and the extent to which each is dependent upon the victim for care and support;

(7) The nature and extent of the injuries that the victim sustained from the criminally injurious conduct for which compensation is sought, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;

(8) The total amount of the economic loss that the victim, a dependent or the claimant sustained or will sustain as a result of the criminally injurious conduct, without regard to the financial limitation set forth in subsection (g), section fourteen of this article;

(9) The amount of benefits or advantages that the victim, a dependent or other claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct, and the name of each collateral source;

(10) Any additional relevant information that the ~~Court of Claims~~ West Virginia Legislative Claims Commission may require. The ~~Court of Claims~~ West Virginia Legislative Claims Commission may require the claimant to submit, with the application, materials to substantiate the facts that are stated in the application.

(b) All applications for an award of compensation shall be filed within two years after the occurrence of the criminally injurious conduct that is the basis of the application. Any application so filed which contains the information specified in subdivisions (1) through (6), subsection (a) of this section may not be excluded from consideration on the basis of incomplete information specified in subdivisions (7) through (10) of said subsection if such information is completed after reasonable assistance in the completion thereof is provided under procedures established by the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

(c) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or who knowingly and willfully participates, or assists in the preparation or presentation of a false or fraudulent application, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of a violation of this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2A-11. Procedure for filing of application.

The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall establish a procedure for the filing, recording and processing of applications for an award of compensation.

§14-2A-12. Investigation and recommendations by claim investigator.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall transmit a copy of the application to the claim investigator within seven days after the filing of the application.

(b) The claim investigator, upon receipt of an application for an award of compensation from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, shall investigate the claim. After completing the investigation, the claim investigator shall make a written finding of fact and recommendation concerning an award of compensation. He or she shall file with the clerk the finding of fact and recommendation and all information or documents that he or she used in his or her investigation: *Provided*, That the claim investigator shall not file information or documents which have been the subject of a protective order entered under the provisions of subsection (c) of this section.

(c) The claim investigator, while investigating the claim, may require the claimant to supplement the application for an award of compensation with any further information or documentary materials, including any medical report readily available, which may lead to any relevant facts aiding in the determination of whether, and the extent to which, a claimant qualifies for an award of compensation.

The claim investigator, while investigating the claim, may also require law-enforcement officers and prosecuting attorneys employed by the state or any political subdivision thereof, to provide him or her with reports, information, witness statements or other data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable him or her to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The prosecuting attorney and any officer or employee of the prosecuting attorney or of the law-enforcement agency shall be immune from any civil liability that might otherwise be incurred as the result of providing such reports, information, witness statements or other data relating to the criminally injurious conduct to the claim investigator.

The claim investigator, while investigating the claim, may obtain autopsy reports including results from the Office of the State Medical Examiner to be used solely for determining eligibility for compensation awards.

Upon motion of any party, court or agency from whom such reports, information, witness statements or other data is sought, and for good cause shown, the court may make any order which justice requires to protect a witness or other person, including, but not limited to, the following: (1) That the reports, information, witness statements or other data not be made available; (2) that the reports, information, witness statements or other data may be made available only on specified terms and conditions, including a designation of time and place; (3) that the reports, information, witness statements or other data be made available only by a different method than that selected by the claim investigator; (4) that certain matters not be inquired into, or that the scope of the claim investigator's request be limited to certain matters; (5) that the reports, information, witness statements or other data be examined only by certain persons designated by the court; (6) that the reports, information, witness statements or other data, after being sealed, be opened only by order of the court; and (7) that confidential information or the identity of confidential witnesses or informers not be disclosed, or disclosed only in a designated manner.

However, in any case wherein the claim investigator has reason to believe that his or her investigation may interfere with or jeopardize the investigation of a crime by law-enforcement officers, or the prosecution of a case by prosecuting attorneys, he or she shall apply to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, or a ~~judge~~ commissioner thereof, for an order granting leave to discontinue his or her investigation for a reasonable time in order to avoid such interference or jeopardization. When it appears to the satisfaction of the ~~court~~ commission, or ~~judge~~ commissioner, upon application by the claim investigator or in its own discretion, that the investigation of a case by the claim investigator will interfere with or jeopardize the investigation or prosecution of a crime, the ~~court~~ commission, or ~~judge~~ commissioner, shall issue an order granting the claim investigator leave to discontinue his or her investigation for such time as the ~~court~~ commission, or ~~judge~~ commissioner, deems reasonable to avoid such interference or jeopardization.

(d) The finding of fact that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether the criminally injurious conduct that is the basis for the application did occur, the date on which the conduct occurred and the exact nature of the conduct;

(2) If the criminally injurious conduct was reported to a law-enforcement officer or agency, the date on which the conduct was reported and the name of the person who reported the conduct; or the reasons why the conduct was not reported to a law-enforcement officer or agency; or the

reasons why the conduct was not reported to a law-enforcement officer or agency within seventy-two hours after the conduct occurred;

(3) The exact nature of the injuries that the victim sustained as a result of the criminally injurious conduct;

(4) If the claim investigator is recommending that an award be made, a specific itemization of the economic loss that was sustained by the victim, the claimant or a dependent as a result of the criminally injurious conduct;

(5) If the claim investigator is recommending that an award be made, a specific itemization of any benefits or advantages that the victim, the claimant or a dependent has received or is entitled to receive from any collateral source for economic loss that resulted from the conduct;

(6) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(7) Any information which might be a basis for a reasonable reduction or denial of a claim because of contributory misconduct of the claimant or of a victim through whom he or she claims;

(8) Any additional information that the claim investigator deems to be relevant to the evaluation of the claim.

(e) The recommendation that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether an award of compensation should be made to the claimant and the amount of the award;

(2) If the claim investigator recommends that an award not be made to the claimant, the reason for his or her decision.

(f) The claim investigator shall file his or her finding of fact and recommendation with the clerk within six months after the filing of the application: *Provided*, That where there is active criminal investigation or prosecution of the person or persons alleged to have committed the criminally injurious conduct which is the basis for the claimant's claim, the claim investigator shall file his or her finding of fact and recommendation within six months after the first of any final convictions or other final determinations as to innocence or guilt, or any other final disposition of criminal proceedings. In any case, an additional time period may be provided by order of any ~~Court of Claims judge~~ or commissioner upon good cause shown.

§14-2A-13. Notice to claimant of claim investigator's recommendation; evaluation of claim by ~~judge~~ or commissioner.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, upon receipt of the claim investigator's finding of fact and recommendation, shall forward a copy of the finding of fact and recommendation to the claimant with a notice informing the claimant that any response, in the form of objections or comments directed to the finding of fact and recommendation, must be filed with the clerk within thirty days of the date of the notice. After the expiration of such thirty-day period, the clerk shall assign the claim to a ~~judge~~ or commissioner. ~~of the court.~~

(b) The ~~judge or~~ commissioner to whom the claim is assigned shall review the finding of fact and recommendation and any response submitted by the claimant and, if deemed appropriate, may request the claim investigator to comment in writing on the claimant's response. The ~~judge or~~ commissioner shall, within forty-five days after assignment by the clerk, evaluate the claim without a hearing and either deny the claim or approve an award of compensation to the claimant.

§14-2A-14. Grounds for denial of claim or reduction of awards; maximum awards.

(a) Except as provided in subsection (b), section ten of this article, the ~~judge or~~ commissioner may not approve an award of compensation to a claimant who did not file his or her application for an award of compensation within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which he or she is seeking an award of compensation.

(b) The ~~judge or~~ commissioner may not approve an award of compensation if the criminally injurious conduct upon which the claim is based was not reported to a law-enforcement officer or agency or, in the case of sexual offense, the claimant did not undergo a forensic medical examination, within ninety-six hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct or undergo a forensic medical examination within the 96-hour period: *Provided*, That no reporting to a law-enforcement officer or agency or a forensic medical examination is required if the claimant is a juvenile in order for a ~~judge or~~ commissioner to approve an award of compensation.

(c) The ~~judge or~~ commissioner may not approve an award of compensation to a claimant who is the offender or an accomplice of the offender who committed the criminally injurious conduct, nor to any claimant if the award would unjustly benefit the offender or his or her accomplice.

(d) A ~~judge or~~ commissioner, upon a finding that the claimant or victim has not fully cooperated with appropriate law-enforcement agencies or the claim investigator, may deny a claim, reduce an award of compensation or reconsider a claim already approved.

(e) A ~~judge or~~ commissioner may not approve an award of compensation if the injury occurred while the victim was confined in any state, county or regional jail, prison, private prison or correctional facility.

(f) After reaching a decision to approve an award of compensation, but prior to announcing the approval, the ~~judge or~~ commissioner shall require the claimant to submit current information as to collateral sources on forms prescribed by the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The ~~judge or~~ commissioner shall reduce an award of compensation or deny a claim for an award of compensation that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is or will be recouped from other persons, including collateral sources, or if the reduction or denial is determined to be reasonable because of the contributory misconduct of the claimant or of a victim through whom he or she claims. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source: *Provided*, That if it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitation set forth in subsection (g) of this section.

(g) (1) Except in the case of death, or as provided in subdivision (2) of this subsection, compensation payable to a victim and to all other claimants sustaining economic loss because of injury to that victim may not exceed \$35,000 in the aggregate. Compensation payable to all claimants because of the death of the victim may not exceed \$50,000 in the aggregate.

(2) In the event the victim's personal injuries are so severe as to leave the victim with a disability, as defined in Section 223 of the Social Security Act, as amended, as codified in 42 U. S. C. §423, the ~~court~~ commission may award an additional amount, not to exceed \$100,000, for special needs attributable to the injury.

(h) If an award of compensation of \$5,000 or more is made to a minor, a guardian shall be appointed pursuant to the provisions of article ten, chapter forty-four of this code to manage the minor's estate.

§14-2A-15. Hearings.

(a) If either the claim investigator or the claimant disagrees with the approval of an award or the denial of a claim in the summary manner set forth in the preceding sections of this article, the claim investigator or the claimant, or both, shall file with the clerk a request for hearing. Such request shall be filed within twenty-one days after notification by the ~~judge or~~ commissioner of his or her decision.

(b) Upon receipt of a request for hearing, the clerk shall ~~place the claim upon the regular docket of the court~~ set a date and time for hearing, shall advise the Attorney General and the claimant of the receipt of the request and docketing of the claim, and shall request the Attorney General to commence negotiations with the claimant.

(c) During the period of negotiations and pending hearing, the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts, an attempt shall be made to stipulate the questions of fact in issue.

(d) The hearing held in accordance with this section shall be before a single ~~judge or~~ commissioner to whom the claim has not been previously assigned. Hearings before a ~~judge or~~ commissioner may, in the discretion of such hearing officer, be held at such locations throughout the state as will facilitate the appearance of the claimant and witnesses.

(e) The hearing shall be conducted so as to disclose all material facts and issues. The ~~judge or~~ commissioner may examine or cross-examine witnesses. The ~~judge and~~ commissioner may call witnesses or require evidence not produced by the parties; may stipulate the questions to be argued by the parties; and may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(f) After the close of the hearing the ~~judge or~~ commissioner shall consider the claim and shall conclude his or her determination, if possible, within thirty days.

(g) The ~~court~~ commission shall adopt and may from time to time amend rules of procedure to govern proceedings before the ~~court~~ commission in accordance with the provisions of this article. The rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims. The rules shall permit a claimant to appear in his or her own behalf or be represented by

counsel and provide for interests of the state to be represented by the Attorney General in any hearing under this section at no additional cost to the fund or the state.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2A-16. Evidence.

(a) There is no privilege, except the privilege arising from the attorney-client relationship, as to communications or records that are relevant to the physical, mental or emotional condition of the claimant or victim in a proceeding under this article in which that condition is an element.

(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim for an award of compensation, the ~~court, judge~~ commission or a commissioner may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant and the claim investigator. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis and other conclusions and reports of earlier examinations of the same conditions. On request of the person examined, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall furnish him or her a copy of the report. If the victim is deceased, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, on request, shall furnish the claimant a copy of the report.

(c) The ~~court, or a judge~~ commission, or a commissioner thereof, may order law-enforcement officers employed by the State or any political subdivision thereof to provide it or the claim investigator with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation.

(d) The ~~court, judge~~ commission or a commissioner thereof, may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

(e) The ~~court, judge~~ commission or a commissioner thereof, or the claim investigator, in a claim arising out of a violation of article eight-b, chapter sixty-one of this code, shall not request the victim or the claimant to supply any evidence of specific instances of the victim's activity, or reputation evidence of the victim's sexual activity, unless it involves evidence of the victim's past sexual activity with the offender, and then only to the extent that the ~~court, the judge~~, the commissioner or the claim investigator finds that the evidence is relevant to a fact at issue in the claim.

(f) Notwithstanding any provision of this code to the contrary relating to the confidentiality of juvenile records, the ~~Court of Claims~~ West Virginia Legislative Claims Commission, ~~a judge~~ or a commissioner thereof, or the claim investigator shall have access to the records of juvenile proceedings which bear upon an application for compensation under this article. The ~~Court of~~

~~Claims West Virginia Legislative Claims Commission, a judge or a commissioner thereof, and the claim investigator, shall, to the extent possible, maintain the confidentiality of juvenile records.~~

§14-2A-17. Contempt sanction not available.

If a person refuses to comply with an order under this article, or asserts a privilege, except privileges arising from the attorney-client relationship, so as to withhold or suppress evidence relevant to a claim for an award of compensation, ~~the court, judge~~ commission or a commissioner thereof may make any just order, including denial of the claim, but shall not find the person in contempt. If necessary to carry out any of his or her powers and duties, the claim investigator may petition the ~~Court of Claims West Virginia Legislative Claims Commission~~ for an appropriate order, including an order authorizing the investigator to take the depositions of witnesses by oral examination or written interrogatory, but the ~~Court of Claims West Virginia Legislative Claims Commission~~ shall not find a person in contempt for refusal to submit to a mental or physical examination.

§14-2A-18. Effect of no criminal charges being filed or conviction of offender.

The ~~court, or a judge~~ commission or a commissioner thereof, may approve an award of compensation whether or not any person is convicted for committing the conduct that is the basis of the award. The filing of a criminal charge shall be a prerequisite for receipt of compensation unless it is determined that no charges were filed due to the identity of the perpetrator being unknown: *Provided*, That no criminal charges need be filed if: (1) The claimant is an adult at the time the conduct giving rise to the claim occurred and no criminal charges were filed for reasons other than the desire of the claimant and a law-enforcement agency confirms that the available evidence supports a finding that a crime occurred; or (2) the claimant was a juvenile at the time the conduct giving rise to the claim occurred. Proof of conviction of a person whose conduct gave rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction or certiorari is pending, or a rehearing or new trial has been ordered.

The ~~court, or a judge~~ commission or a commissioner thereof, shall suspend, upon a request of the claim investigator, the proceedings in any claim for an award of compensation pending disposition of a criminal prosecution that has been commenced or is imminent.

§14-2A-19. Attorney and witness fees.

(a) By separate order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine and award reasonable attorney's fees, commensurate with services rendered and reimbursement for reasonable and necessary expenses actually incurred shall be paid from the Crime Victims Compensation Fund to the attorney representing a claimant in a proceeding under this article at the same rates as set forth in section thirteen-a, article twenty-one, chapter twenty-nine of this code. Attorney's fees and reimbursement may be denied upon a finding that the claim or appeal is frivolous. Awards of attorney's fees and reimbursement shall be in addition to awards of compensation, and attorney's fees and reimbursement may be awarded whether or not an award of compensation is approved. An attorney shall not contract for or receive any larger sum than the amount allowed under this section. In no event may a prosecuting attorney or assistant prosecuting attorney represent any victim seeking compensation under this article.

(b) Each witness called by the ~~court~~ commission to appear in a hearing on a claim for an award of compensation shall receive compensation and expenses in an amount equal to that

received by witnesses in civil cases as provided in section sixteen, article one, chapter fifty-nine of this code to be paid from the Crime Victims Compensation Fund.

§14-2A-19a. Effect on physician, hospital and healthcare providers filing an assignment of benefits; tolling of the statute of limitations.

(a) As part of the order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine whether fees are due and owing for health care services rendered by a physician, hospital or other health care provider stemming from an injury received as defined under this article, and further, whether or not the physician, hospital or other health care provider has been presented an assignment of benefits, signed by the crime victim, authorizing direct payments of benefits to the health care provider. If such fees are due and owing and the health care provider has presented a valid assignment of benefits, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine the amount or amounts and shall cause such reasonable fees to be paid out of the amount awarded the crime victim under this article directly to the physician, hospital or other health care provider. The requirements of this section shall be applicable to, and any such unpaid fees shall be determined and payable from, the awards made by the Legislature at regular session, ~~one thousand nine hundred eighty seven~~ 1987, and subsequently: *Provided*, That when a claim is filed under this section, the ~~court~~ commission shall determine the total damages due the crime victim, and where the total damages exceed the maximum amount which may be awarded under this article, the amount paid the health care provider shall be paid in the same proportion to which the actual award bears to the total damages determined by the ~~court~~ commission. In any case wherein an award is made which includes an amount for funeral, cremation or burial expenses, or a combination thereof, the ~~court~~ commission shall provide for the payment directly to the provider or providers of such services, in an amount deemed proper by the ~~court~~ commission, where such expenses are unpaid at the time of the award.

(b) If the health care provider has filed an assignment of benefits, the provider shall aid the crime victim in the development of his or her claim by providing the ~~court~~ commission with the amount of such fees as well as the amount of any portion of the fees paid the provider by the crime victim directly or paid the provider for the crime victim by a collateral source.

(c) Whether or not a health care provider has filed an assignment of benefits, the ~~court~~ commission shall disclose no information regarding the status of the claim to the provider: *Provided*, That the ~~court~~ commission shall promptly notify the provider of the final disposition of the claim, if the provider is known to the ~~court~~ commission.

(d) Whenever a person files a claim under this article, the statute of limitations for the collection of unpaid fees paid for such health care services shall be tolled during the pendency of the claim before the ~~court~~ commission.

§14-2A-19b. Rates and limitations for health care services.

The ~~court~~ commission may establish by ~~court~~ rule or ~~court~~ order maximum rates and service limitations for reimbursement of health care services rendered by a physician, hospital, or other health care provider. An informational copy of the maximum rates and service limitations shall be filed with the Joint Committee on Government and Finance upon adoption by the ~~court~~ commission. Any change in the maximum rates or service limitations shall be effective sixty days after the adoption of the changes. A provider who accepts payment from the ~~court~~ commission for a service shall accept the ~~court's~~ commission's rates as payment in full and may not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the ~~court~~ commission for that service. A provider may not

charge a claimant for any difference between the cost of a service provided to a claimant and the ~~court's~~ court commission's payment for that service. To ensure service limitations are uniform and appropriate to the levels of treatment required by the claimant, the ~~court~~ court commission may review all claims for these services as necessary to ensure their medical necessity.

§14-2A-20. Budget preparation; procedure for payment of claims.

(a) The Legislative Auditor shall submit to the Department of Administration, on or before November 20, of each year, an anticipated budget for the Crime Victims Compensation Program provided in this article for the next fiscal year, which shall include:

(1) An estimate of the balance and receipts anticipated in the Crime Victims Compensation Fund;

(2) Amounts anticipated to be sufficient for the payment of all administrative expenses necessary for the administration of this article; and

(3) Amounts anticipated to be sufficient for the payment of awards, attorney fees, witness fees and other authorized fees, costs or expenses that may arise under this article during the next fiscal year.

(b) The Governor shall include in his or her proposed budget bill and revenue estimates the amounts submitted by the Legislative Auditor under subsection (a) of this section.

(c) The clerk shall certify each authorized award and the amount of the award and make requisition upon the Crime Victims Compensation Fund to the Auditor. Notwithstanding any provision of chapter twelve of this code to the contrary, the Auditor shall issue a warrant to the Treasurer without further examination or review of the claim if there is a sufficient unexpended balance in the Crime Victims Compensation Fund.

(d) The ~~court~~ court commission may provide that payment be made to a claimant or to a third party for economic losses of the claimant and the order may provide an award for the payment for actual economic losses which are prospective as well as those which have already been incurred.

§14-2A-21. Annual report of ~~Court of Claims~~ West Virginia Legislative Claims Commission.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare and transmit annually to the Governor and the Legislature a report of the activities of the ~~Court of Claims~~ West Virginia Legislative Claims Commission under this article. The report shall include the number of claims filed, the number of awards made and the amount of each award, and a statistical summary of claims and awards made and denied; the balance in the Crime Victims Compensation Fund with a listing by source and amount of the moneys that have been deposited in the fund; the amount that has been withdrawn from the fund, including separate listings of the administrative costs incurred by the ~~Court of Claims~~ West Virginia Legislative Claims Commission, compensation of ~~judges~~, commissioners and ~~court~~ court commission personnel, the amount awarded as attorneys' fees.

§14-2A-25. Publicity.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare an information brochure for the benefit of the general public, outlining the rights of claimants and procedures to be followed under this article. Copies of such brochure shall be

distributed to law-enforcement agencies in the state, and be made available to other interested persons.

(b) Any law-enforcement agency that investigates an offense committed in this state involving personal injury shall make reasonable efforts to provide information to the victim of the offense and his or her dependents concerning the availability of an award of compensation and advise such persons that an application for an award of compensation may be obtained from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-26. ~~Rules and regulations~~ Rule-making.

(a) The ~~Court of Claims~~ West Virginia Legislative Claims Commission may promulgate rules and regulations to implement the provisions of this article.

(b) The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall promulgate rules and regulations to govern the award of compensation to the spouse of, person living in the same household with, parent, child, brother or sister of the offender or his or her accomplice in order to avoid an unjust benefit to or the unjust enrichment of the offender or his or her accomplice.

§14-2A-28. Retroactive effect of amendments.

Amendments made to the provisions of this article during the regular session of the Legislature in the year ~~one thousand nine hundred eighty-four~~ 1984, shall be of retroactive effect to the extent that such amended provisions shall apply to all cases pending before the ~~Court of Claims~~ West Virginia Legislative Claims Commission on the effective date of the act of the Legislature which effects such amendment.

The bill (Eng. Com. Sub. for H. B. 2447), as amended, was then ordered to third reading.

Eng. House Bill 2766, Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund.

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

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

On page one, section nine-a, line ten, by striking out the word "Fee".

The bill (Eng. H. B. 2766), 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:

Com. Sub. for Senate Bill 243, Relating to domestic relations.

Com. Sub. for Senate Bill 288, Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person.

Com. Sub. for Com. Sub. for Senate Bill 339, Creating Legislative Coalition on Chronic Pain Management.

Com. Sub. for Com. Sub. for Senate Bill 360, Creating Legislative Coalition on Diabetes Management.

And,

Com. Sub. for Senate Bill 398, Creating Emergency Volunteer Health Practitioners Act.

The Senate proceeded to the thirteenth order of business.

On motion of Senator Ferns, leaves of absence for the day were granted Senators Facemire and Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Tuesday, March 21, 2017, at 11 a.m.

SENATE CALENDAR

Tuesday, March 21, 2017
11:00 AM

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 27 - Relating to microprocessor permit (original similar to HB2458)
- Eng. Com. Sub. for S. B. 36 - Permitting school nurses to possess and administer opioid antagonists
- Eng. Com. Sub. for S. B. 216 - Permitting exclusion, modification or limitation of warranties in sale of used motor vehicles (original similar to HB2578, SB217)
- Eng. Com. Sub. for Com. Sub. for S. B. 219 - Relating to conspiracy to commit crimes under Uniform Controlled Substances Act (original similar to HB2541)
- Eng. Com. Sub. for Com. Sub. for S. B. 341 - Establishing WV business growth in low-income communities tax credit
- Eng. S. B. 468 - Removing restrictions on where traditional lottery games may be played
- Eng. Com. Sub. for S. B. 480 - Authorizing local government adopt energy efficiency partnership programs
- Eng. S. B. 547 - Modifying fees paid to Secretary of State
- Eng. Com. Sub. for S. B. 548 - Providing for specific escheat of US savings bonds
- Eng. S. B. 564 - Relating to Statewide Independent Living Council
- Eng. H. B. 2300 - Regulating step therapy protocols
- Eng. Com. Sub. for H. B. 2447 - Renaming the Court of Claims the state Claims Commission - (Com. title amend. pending)
- Eng. H. B. 2766 - Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund

SECOND READING

- Com. Sub. for S. B. 243 - Relating to domestic relations (original similar to SB317)
- Com. Sub. for S. B. 288 - Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person
- Com. Sub. for Com. Sub. for S. B. 339 - Creating Legislative Coalition on Chronic Pain Management
- Com. Sub. for Com. Sub. for S. B. 360 - Creating Legislative Coalition on Diabetes Management
- Com. Sub. for S. B. 398 - Creating Emergency Volunteer Health Practitioners Act

FIRST READING

- Com. Sub. for S. B. 18 - Requiring new comprehensive statewide student assessment
- Com. Sub. for S. B. 362 - Authorizing redirection of certain amounts to General Revenue Fund
- Com. Sub. for Com. Sub. for S. B. 382 - Allowing automobile auctions obtain abandoned vehicles' titles
- Com. Sub. for S. B. 414 - Creating Division of Multimodal Transportation (original similar to HB2717)
- Com. Sub. for Com. Sub. for S. B. 461 - Exempting WV State Police from state purchasing requirements
- Com. Sub. for S. B. 467 - Removing restrictions on maximum wager per limited video lottery game and bill denominations accepted by video lottery terminals
- Com. Sub. for S. B. 472 - Permitting bear hunting with guides
- Com. Sub. for S. B. 479 - Relating to regulation of liquor sales
- Com. Sub. for S. B. 499 - Creating Debt Resolution Services Division in Auditor's office (original similar to HB2791)
- Com. Sub. for S. B. 523 - Converting to biweekly pay cycle for state employees
- Com. Sub. for S. B. 533 - Relating to taxes on wine and intoxicating liquors (original similar to HB2894)
- Com. Sub. for S. B. 572 - Relating to nonpartisan election of county surveyors
- S. B. 585 - Relating to locomotive crew size
- S. B. 595 - Allowing county assessors make separate entries in land books when real property is partly used for exempt and partly nonexempt purposes
- S. B. 684 - Relating generally to WV State Police

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Tuesday, March 21, 2017

10 a.m.	Transportation & Infrastructure	(Room 451M)
1 p.m.	Health & Human Resources	(Room 451M)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)

Wednesday, March 22, 2017

2 p.m.	Agriculture & Rural Development	(Room 208W)
--------	---------------------------------	-------------