

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Wednesday, April 5, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Dr. Jesse Waggoner, Senior Pastor, Mount Calvary Baptist Church, Charleston, West Virginia.

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

Pending the reading of the Journal of Tuesday, April 4, 2017,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Senate Bill 28, Creating new system for certain contiguous counties to establish regional recreation authorities.

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

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

On page six, section three, lines five through seven, after the word "landowners" by changing the semicolon to a period and striking out the proviso.

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

Engrossed Senate Bill 28, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill 28 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Facemire, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—26.

The nays were: Beach, Cline, Jeffries, Mullins, Ojeda, Stollings and Takubo—7.

Absent: Maroney—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 28) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 125, Authorizing DHHR promulgate legislative rules.

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

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

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

Eng. Senate Bill 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants.

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

Eng. Senate Bill 170, Repealing state hemophilia program.

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

Eng. Senate Bill 171, Repealing Programs of All-Inclusive Care for Elderly.

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

Eng. Com. Sub. for Senate Bill 180, Relating to PSC jurisdiction over certain telephone company and internet services.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 186, Adjusting date when children become eligible for certain school programs and school attendance requirements.

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

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

On page five, section forty-four, lines forty-two and forty-three, by striking out the words "Beginning no later than the school year 2012-2013 and continuing thereafter, county" and inserting in lieu thereof the word "County";

On page five, section forty-four, lines forty-five and forty-six, by striking out the words "Beginning no later than the school year 2016-2017 and continuing thereafter, these" and inserting in lieu thereof the word "These";

And,

On page eleven, section one-a, lines thirteen and fourteen, by striking out the words "Beginning with the 2011-2012 high school freshman cohort class of students, and notwithstanding" and inserting in lieu thereof the word "Notwithstanding".

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 186, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 186 pass?"

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

The nays were: Unger and Woelfel—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 186) passed with its title.

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

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

Eng. Senate Bill 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas.

A message from The Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect July 1, 2017, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for Senate Bill 280, Moving administration of Civil Air Patrol to Adjutant General.

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

On further motion of Senator Ferns, the Senate concurred in the changed effective date of the bill, that being to take effect July 1, 2017, instead of ninety days from passage.

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

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 280) takes effect July 1, 2017.

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

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

Eng. Senate Bill 321, Reporting requirements of employee information to CPRB.

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

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

On page one, section twelve, lines one through eight, by striking out everything and inserting in lieu thereof the following:

Pursuant to its responsibility as a regulatory body, the Consolidated Public Retirement Board shall collect all information regarding individuals employed with a participating public employer of a retirement system administered pursuant to this article necessary to ensure compliance with retirement plan provisions. All participating public employers of a public retirement system administered pursuant to this article shall promptly report all individuals employed with the

participating public employer to the Board and include information regarding the individual including, but not limited to, the individual's name, social security number, gross salary or compensation, rate of pay, hours or days worked or paid, type of pay (salary, hourly or per diem), employment contract period, job title, permanent or temporary employment, full-time or part-time employment, scheduled hours, and benefit eligibility.

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

Engrossed Senate Bill 321, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 321) passed with its title.

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

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 344, Relating to application of payments on consumer credit sale and loans.

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

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

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

That §46A-2-115 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §46A-3-111, §46A-3-112 and §46A-3-113 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-115. Limitation on default charges.

(a) Except for reasonable expenses, including costs and fees authorized by statute incurred in realizing on a security interest, the agreements that evidence a consumer credit sale or a consumer loan may not provide for charges as a result of default by the consumer other than those authorized by this chapter.

(b) With respect to this subsection:

(1) The phrase “consumer loan” shall mean a consumer loan secured by real property: (A) Originated by a bank or savings and loan association, or an affiliate, not solicited by an unaffiliated broker; (B) held by a federal home loan bank, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the West Virginia Housing Development Fund; or (C) insured or guaranteed by the Farmers Home Administration, the Veteran’s Administration or the Department of Housing and Urban Development.

(2) Except as provided in subdivision (3) of this subsection, the agreements that evidence a consumer loan may permit the recovery of the following charges: (A) Costs of publication; (B) an appraisal fee; (C) all costs incidental to a title examination including professional fees, expenses incidental to travel, and copies of real estate and tax records; (D) expenses incidental to notice made to lienholders and other parties and entities having an interest in the real property to be sold; (E) certified mailing costs; and (F) all fees and expenses incurred by a trustee incident to a pending trustee’s sale of the real property securing the consumer loan.

(3) For purposes of the charges expressly authorized by this subsection, no charge may be assessed and collected from a consumer unless: (A) Each charge is reasonable in its amount; (B) each charge is actually incurred by or on behalf of the holder of the consumer loan; (C) each charge is actually incurred after the last day allowed for cure of the consumer’s default pursuant to section one hundred six, of this article and before the consumer reinstates the consumer loan or otherwise cures the default; (D) the holder of the consumer loan and the consumer have agreed to cancel any pending trustee’s sale or other foreclosure on the real property securing the consumer loan; and (E) in the case of an appraisal fee, no appraisal fee has been charged to the consumer within the preceding six months.

(c) All payments made to a creditor in accordance with the terms ~~amounts paid to a creditor arising out of any consumer credit sale or consumer loan~~ shall be credited upon receipt against payments due: *Provided*, That amounts received and applied during a cure period will not result in a duty to provide a new notice of right to cure; *Provided, however*, That partial amounts received during the period set forth in subdivision (3) subsection (b) of this section do not create an automatic duty to reinstate and may be returned by the creditor. Default charges shall be accounted for separately. Those recoverable charges set forth in said subsection arising during the period described therein may be added to principal.

(d) At least once every twelve months, the holder or servicer of each consumer loan secured by real property against which the creditor assesses any default charge, and: (1) Not serviced by the originating lender or its affiliate or their successors by merger; (2) not held by a federal home loan bank, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the West Virginia Housing Development Fund; or (3) not insured or guaranteed by the Farmers Home Administration, the Veteran’s Administration, Department of Housing and Urban Development, shall transmit to the consumer an accounting of every default charge assessed within the previous twelve months, including the date, amount and nature of the cost.

This subsection does not apply to delinquency charges permitted under sections one hundred twelve and one hundred thirteen, article three of this chapter; credit line over-the-limit fees; deferral charges permitted under section one hundred fourteen, article three of this chapter;

collateral protection insurance permitted under section one hundred nine-a, article three of this chapter; and advances to pay taxes.

(e) A provision in violation of this section is unenforceable. The amendments to this section by acts of the Legislature in the regular session of 2003 are a clarification of existing law and shall be retroactively applied to all agreements in effect on the date of passage of the amendments, except where controversies arising under those agreements are pending prior to the date of passage of the amendments.

(f) Nothing in this section limits the expenses incidental to a trustee's sale of real property that are recoverable pursuant to section seven, article one, chapter thirty-eight of this code.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-111. Application of payments on account; rebate upon prepayment, refinancing or consolidation; judgments and interest on judgments.

(a) ~~When a consumer credit sale or consumer loan is precomputed all~~ All payments made to a creditor in accordance with the terms of a precomputed consumer credit sale or consumer loan on account shall be applied to installments in the order in which they fall due. except as provided in subsection (3), section one hundred twelve of this article

(b) All payments made to a creditor which do not comply with the terms of a precomputed consumer credit sale or consumer loan may be held in a suspense or unapplied funds account. The creditor must disclose to the consumer the total amount of funds held in a suspense or unapplied funds account. On accumulation of funds sufficient to cover a full payment in accordance with terms of the precomputed consumer credit sale or consumer loan agreement, the creditor shall apply the payment in accordance with subsection (a) of this section.

(c) When the total amount is payable in substantially equal consecutive monthly installments, the portion of the sales finance charge or loan finance charge attributable to any particular monthly installment period shall be that proportion of the sales finance charge or loan finance charge originally contracted for, as the balance scheduled to be outstanding on the last day of the monthly installment period before deducting the payment, if any, scheduled to be made on that day bears to the sum of all the monthly installment balances under the original schedule of payments. (This method of allocation is the sum of the digits method, commonly referred to as the "Rule of 78").

~~(2)~~ (d) Upon prepayment in full of a precomputed consumer credit sale or consumer loan by cash, a new loan, refinancing, consolidation or otherwise, the creditor shall rebate to the consumer that portion of the sales finance charge or loan finance charge in the manner specified in section five-d, article six, chapter forty-seven of this code: *Provided*, That no rebate of less than \$1 need be made.

~~(3)~~ (e) Upon prepayment in full of a precomputed or nonprecomputed consumer credit sale or consumer loan by cash, execution of a new loan, refinancing, consolidation or otherwise, except where the loan is a purchase money loan secured by a first lien mortgage on residential property, or is made by a federally-insured depository institution, the creditor shall rebate to the consumer that portion of the unearned prepaid finance charges attributable to loan or credit investigations fees, origination fees or points in the manner specified in subsection (c), section five-d, article six, chapter forty-seven of this code: *Provided*, That no rebate of less than \$1 need be made:

Provided, however, That if the loan was made in furtherance of aiding or abetting a person to whom the loan is assigned, evade this rebate, then the rebate required herein shall apply.

(4) (f) If the maturity of a precomputed consumer credit sale or consumer loan is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as if the payment had been made on the date judgment is entered and such judgment shall bear interest until paid at the rate of ten percent per annum.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-112. Delinquency charges on precomputed consumer credit sales or consumer loans.

(1) With respect to a precomputed consumer credit sale or consumer loan, refinancing or consolidation, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its scheduled due date in an amount not exceeding the greater of:

(a) Five percent of the unpaid amount of the installment, not to exceed \$30; or

(b) An amount equivalent to the deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

(2) A delinquency charge under subdivision (a), subsection (1) of this section may be collected only once on an installment however long it remains in default. No delinquency charge may be collected with respect to a deferred installment unless the installment is not paid in full within ten days after its deferred due date. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though ~~an earlier maturing installment or~~ a delinquency or deferral charge on an earlier installment may not have been paid in full. ~~For purposes of this subsection, payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges~~

(4) If two installments, or parts thereof, of a precomputed consumer credit sale or consumer loan are in default for ten days or more, the creditor may elect to convert such sale or loan from a precomputed sale or loan to one in which the sales finance charge or loan finance charge is based on unpaid balances. In such event, the creditor shall make a rebate pursuant to the provisions on rebate upon prepayment, refinancing or consolidation as of the maturity date of any installment then delinquent and thereafter may make a sales finance charge or loan finance charge as authorized by the appropriate provisions on sales finance charges or loan finance charges for consumer credit sales or consumer loans. The amount of the rebate may not be reduced by the amount of any permitted minimum charge. If the creditor proceeds under this subsection, any delinquency or deferral charges made with respect to installments due at or after the maturity date of the delinquent installments shall be rebated and no further delinquency or deferral charges shall be made.

(5) The commissioner shall prescribe by rule the method or procedure for the calculation of delinquency charges consistent with the other provisions of this chapter where the precomputed consumer credit sale or consumer loan is payable in unequal or irregular installments.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.**§46A-3-113. Delinquency charges on nonprecomputed consumer credit sales or consumer loans repayable in installments.**

(1) In addition to the continuation of the sales finance charge or loan finance charge on a delinquent installment with respect to a nonprecomputed consumer credit sale or consumer loan, refinancing or consolidation, repayable in installments, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its scheduled due date of five percent of the unpaid amount of the installment, not to exceed \$30.

(2) A delinquency charge under subsection (1) of this section may be collected only once on an installment however long it remains in default. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though ~~an earlier maturing installment or~~ a delinquency or deferral charge on an earlier installment may not have been paid in full. ~~For purposes of this subsection, payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges~~

Senator Ferns moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put.

A voice vote being taken, the President expressed doubt as to the result, and requested a standing vote thereon.

A standing vote being taken, there were twenty-one "yeas" and thirteen "nays".

Whereupon, the President declared Senator Ferns' aforestated motion had prevailed.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 344, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Cline, Ferns, Gaunch, Hall, Mann, Maroney, Maynard, Mullins, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—19.

The nays were: Beach, Clements, Facemire, Jeffries, Karnes, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Unger and Woelfel—15.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 344) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 350, Allowing licensed professional counselors be issued temporary permit.

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

Eng. Com. Sub. for Senate Bill 358, Relating generally to trustee sale of timeshare estates.

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

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

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

That §36-9-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §36-9-15a, all to read as follows:

ARTICLE 9. WEST VIRGINIA REAL ESTATE TIMESHARING ACT.

§36-9-15. LIENS FOR OVERDUE ASSESSMENTS; MECHANIC'S LIENS, INSURANCE.

(a) The managing entity has a lien on a timeshare period for any assessment levied against that timeshare period from the date such assessment becomes due.

(b) The managing entity may bring an action in its name to foreclose a lien for assessments, in the manner a mortgage of real property is foreclosed.

(c) The managing entity may cause a trustee sale of the timeshare estate if the owner is delinquent to the managing entity for more than one year for assessments against the timeshare estate: *Provided*, That a trustee sale shall be effectuated as provided in section fifteen-a, article nine, chapter thirty-six of this code.

(d) In addition to the remedies in subsections (b) and (c) of this section, the managing entity may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. However, in the case of a timesharing plan in which no interest in real property is conveyed, the managing entity may bring an action under chapter forty-six of this code.

~~(e)~~ (e) The lien is effective from the date of recording a claim of lien in the public records of the county or counties in which the accommodations or facilities constituting the timesharing plan are located. The claim of lien shall state the name of the timesharing plan and identify the timeshare period for which the lien is effective, state the name of the purchaser, state the assessment amount due and state the due dates. The lien is effective until satisfied or until barred by law. The claim of lien may include only assessments which are due when the claim is recorded. A claim of lien shall be signed and acknowledged by an officer or agent of the managing entity. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

~~(d)~~ (f) A judgment in any action or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

~~(e)~~ (g) Labor performed on a unit, or materials furnished to a unit, shall not be the basis for the filing of a lien pursuant to the mechanic's lien law against the timeshare unit of any timeshare period owner not expressly consenting to or requesting the labor or materials.

~~(f)~~ (h) The seller, initially, and thereafter the managing entity, shall be responsible for obtaining insurance to protect the accommodations and facilities of the timesharing plan in an amount equal to the replacement cost of such accommodations and facilities.

(i) Notwithstanding any provision in this article, the lien granted pursuant to this section shall not have priority over any voluntarily granted lien or security interest in the timeshare estate.

(j) A copy of each policy of insurance in effect shall be made available for reasonable inspection by purchasers and their authorized agents.

§36-9-15a. Trustee's sale of timeshare estates.

(a) A managing entity that desires to use a trustee sale shall prepare, execute and acknowledge a notice of trustee sale which shall include the following:

(1) The time and place of sale;

(2) The names of the parties to the deed under which it will be made;

(3) The date of the deed;

(4) The office and book in which it is recorded;

(5) The terms of sale;

(6) The nature and amount of the owner's current delinquency;

(7) The legal description of the owner's timeshare estate;

(8) The name and address of the association or other managing entity; and

(9) The name and address of the trustee designated by the association or managing entity to conduct the trustee sale.

(b) The managing entity shall record the notice of trustee sale with the clerk of the county commission of the county in which the timeshare estate is located and shall mail by certified mail, return receipt requested, a copy of the notice of trustee sale to the owner listed in the notice at the last address for each delinquent timeshare period according to the records of the managing entity, and, to any holder of a lien or security interest against the timeshare estate being sold, other than the state and the managing entity. To the extent the owner is unable to be located, notice under this subsection is satisfied by notice by publication as provided in subsection (c) of this section.

(c) At least thirty days prior to the date of the trustee sale, the notice of trustee sale shall be published as a Class II legal advertisement in compliance with the provisions of article three,

chapter fifty-nine of this code and the publication area for such publication shall be the county where the property is located.

(d) A trustee appointed in a notice of delinquency may conduct a trustee sale of a timeshare estate under this section. The recording of a notice of trustee sale shall satisfy all requirements for the trustee to appear in the chain of title for the timeshare estate in order for the trustee to be entitled to issue a trustee deed on completion of a trustee's sale for the timeshare estate.

(e) If the delinquencies identified in a notice of trustee sale are not cured within thirty days after the managing entity mails the notice of trustee sale pursuant to subsection (b) of this section, and publication is made under subsection (c) of this section, the managing entity may cause the trustee to conduct a trustee's sale of the delinquent owner's timeshare estate at public auction.

(f) The trustee's sale may include multiple timeshare estates owned by an owner if the owner is delinquent in payment of assessments for all of the timeshare estates included in the trustee's sale proceeding. The trustee's sale may include timeshare estates owned by multiple owners if the notice of trustee's sale provides all information required by this section for each owner and timeshare estate and each timeshare estate is sold separately.

(g) This section shall not apply to any timeshare property if the timeshare instrument expressly mandates that judicial foreclosure is the sole method for the managing entity to foreclose or liquidate a lien securing payment of assessments due to the managing entity.

(h) When a sale of property is made under any trustee deed, there shall, within two months after the sale, be returned by the trustee, to the clerk of the county commission of the county wherein such deed may have been first recorded, an inventory of the property sold and an account of the sale. The clerk of the county commission shall record the same, as provided in section nine, article one, chapter thirty-eight of this code. When a report of the sale of the property sold pursuant to a trustee deed is placed on record by the trustee with the clerk of the county commission as provided in section eight of this article, the trustee shall include in a disclosure form submitted with and made a part of the report of sale the information identified in section eight-a, article one, chapter thirty-eight of this code, to the extent applicable.

(i) If notice is given as provided in this section, no action or proceeding to set aside a trustee sale due to the failure to follow any notice, service, process or other procedural requirement relating to a sale of property under a timeshare instrument, shall be filed or commenced more than one year from the date of the sale.;

And,

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

Eng. Com. Sub. for Senate Bill 358—A Bill to amend and reenact §36-9-15 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-9-15a, all relating generally to the trustee sale of timeshare estates; providing that a managing entity may cause a trustee sale of the timeshare estate if the owner is delinquent to the managing entity for more than one year for assessments against the timeshare estate; clarifying that the statutory lien on the timeshare period is subordinate to any lien or security interest voluntarily granted upon the timeshare period by the owner; requiring notice of a trustee sale be recorded; requiring that notice of a trustee sale be sent to the delinquent owner and to certain holders of liens or security interests encumbering the timeshare period; requiring notice of

trustee sale by publication; providing for a trustee sale at public auction if the delinquency is not cured within thirty days of notice of trustee sale; providing that a trustee sale may include multiple timeshare estates; providing that a trustee sale is prohibited if timeshare instrument expressly mandates judicial foreclosure; requiring a trustee to cause trustee's deed and disclosure to be recorded with the clerk of the county commission; and providing for a statute of limitations.

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

Engrossed Committee Substitute for Senate Bill 358, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 358) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 358) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 362, Authorizing redirection of certain amounts to General Revenue Fund.

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

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

CHAPTER 23. WORKERS' COMPENSATION.**ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.****§23-2C-3. Creation of employers' mutual insurance company as successor organization of the West Virginia Workers' Compensation Commission.**

(a) (1) On or before July 1, 2005, the executive director may take such actions as are necessary to establish an employers' mutual insurance company as a domestic, private, nonstock corporation to:

(A) Insure employers against liability for injuries and occupational diseases for which their employees may be entitled to receive compensation pursuant to this chapter and federal Longshore and Harbor Workers' Compensation Act, 33 U. S. C. §901, *et seq.*;

(B) Provide employer's liability insurance incidental to, and provided in connection with, the insurance specified in paragraph (A) of this subdivision, including coal workers' pneumoconiosis coverage and employer excess liability coverage as provided in this chapter; and

(C) Transact other kinds of property and casualty insurance for which the company is otherwise qualified under the provisions of this code.

(2) The company may not sell, assign or transfer substantial assets or ownership of the company.

(b) If the executive director establishes a domestic mutual insurance company pursuant to subsection (a) of this section:

(1) As soon as practical, the company established pursuant to the provisions of this article shall, through a vote of a majority of its provisional board, file its corporate charter and bylaws with the Insurance Commissioner and apply for a license with the Insurance Commissioner to transact insurance in this state. Notwithstanding any other provision of this code, the Insurance Commissioner shall act on the documents within fifteen days of the filing by the company.

(2) In recognition of the workers' compensation insurance liability insurance crisis in this state at the time of enactment of this article and the critical need to expedite the initial operation of the company, the Legislature authorizes the Insurance Commissioner to review the documentation submitted by the company and to determine the initial capital and surplus requirements of the company, notwithstanding the provisions of section five-b, article three, chapter thirty-three of this code. The company shall furnish the Insurance Commissioner with all information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The Insurance Commissioner shall monitor the economic viability of the company during its initial operation on not less than a monthly basis, until the commissioner, in his or her discretion, determines that monthly reporting is not necessary. In all other respects the company shall comply with the applicable provisions of chapter thirty-three of this code.

(3) Subject to the provisions of subdivision (4) of this subsection, the Insurance Commissioner may waive other requirements imposed on mutual insurance companies by the provisions of chapter thirty-three of this code the Insurance Commissioner determines are necessary to enable the company to begin insuring employers in this state at the earliest possible date.

(4) Within forty months of the date of the issuance of its license to transact insurance, the company shall comply with the capital and surplus requirements set forth in subsection (a), section five-b, article three, chapter thirty-three of this code in effect on the effective date of this enactment, unless the deadline is extended by the Insurance Commissioner.

(c) For the duration of its existence, the company is not a department, unit, agency or instrumentality of the state for any purpose. All debts, claims, obligations and liabilities of the company, whenever incurred, are the debts, claims, obligations and liabilities of the company only and not of the state or of any department, unit, agency, instrumentality, officer or employee of the state.

(d) The moneys of the company are not part of the General Revenue Fund of the state. The debts, claims, obligations and liabilities of the company are not a debt of the state or a pledge of the credit of the state.

(e) The company is not subject to provisions of article nine-a, chapter six of this code; the provisions of article two, chapter six-c of this code; the provisions of chapter twenty-nine-b of this code; the provisions of article three, chapter five-a of this code; the provisions of article six, chapter twenty-nine of this code; or the provisions of chapter twelve of this code.

(f) If the commission has been terminated, effective upon the termination, private carriers, including the company, are not subject to payment of premium taxes, surcharges and credits contained in article three, chapter thirty-three of this code on premiums received for coverage under this chapter. In lieu thereof, the workers' compensation insurance market is subject to the following:

(1) (A) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be collected by each private carrier from its policyholders. The surcharge percentage shall be calculated by dividing the previous fiscal year's total premiums collected plus deductible payments by all employers into the portion of the Insurance Commissioner's budget amount attributable to regulation of the private carrier market. This resulting percentage shall be applied to each policyholder's premium payment and deductible payments as a surcharge and remitted to the Insurance Commissioner. Said surcharge shall be remitted within ninety days of receipt of premium payments;

(B) With respect to fiscal years beginning on and after July 1, 2008, in lieu of the surcharge set forth in the preceding paragraph, each private carrier shall collect a surcharge in the amount of five and five-tenths percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied: *Provided*, That prior to June 30, 2013, and every five years thereafter, the commissioner shall review the percentage surcharge and determine a new percentage as he or she deems necessary;

(C) The amounts required to be collected under paragraph (B) of this subdivision shall be remitted to the Insurance Commissioner on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(2) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be remitted on a quarterly basis by self-insured employers and said percentage shall be calculated by dividing previous year's self-insured payroll in the state into the portion of the Insurance Commissioner's budget amount attributable to regulation of the self-insured employer

market. This resulting percentage shall be applied to each self-insured employer's payroll and the resulting amount shall be remitted as a regulatory surcharge by each self-insured employer. The Industrial Council may promulgate a rule for implementation of this section. The company, all other private carriers and all self-insured employers shall furnish the Insurance Commissioner with all required information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The surcharge shall be calculated so as to only defray the costs associated with the administration of this chapter and the funds raised shall not be used for any other purpose except as set forth in subdivision (4) of this subsection.

(3) (A) Each private carrier shall collect a premiums surcharge from its policyholders as annually determined, by May 1 of each year, by the Insurance Commissioner to produce \$45 million annually, of each policyholder's periodic premium amount for workers' compensation insurance: *Provided*, That the surcharge rate on policies issued or renewed on or after July 1, 2008, shall be nine percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied.

(B) By May 1 each year, the self-insured employer community shall be assessed a cumulative total of \$9 million. The methodology for the assessment shall be fair and equitable and determined by exempt legislative rule issued by the Industrial Council. The amount collected pursuant to this subdivision shall be remitted to the Insurance Commissioner for deposit in the Workers' Compensation Debt Reduction Fund created in section five, article two-d of this chapter: *Provided*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of the amount collected pursuant to this subdivision, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the fund otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code: *Provided, however*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety: *Provided further*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(4) On or before July 1, 2009, the Insurance Commissioner shall make a one-time lump sum transfer of \$40 million generated from the surcharges assessed pursuant to paragraph (B), subdivision (1) of this subsection and subdivision (2) of this subsection to the Bureau of Employment Programs' Commissioner for deposit with the Secretary of the Treasury of the United States as a credit of this state in the Unemployment Trust Fund Account maintained pursuant to section four, article eight, chapter twenty-one-a of this code.

(g) The new premiums surcharge imposed by paragraphs (A) and (B), subdivision (3), subsection (f) of this section sunset and are not collectible with respect to workers' compensation insurance premiums paid when the policy is renewed on or after the first day of the month following the month in which the Governor certifies to the Legislature that the revenue bonds issued pursuant to article two-d of this chapter have been retired and that the unfunded liability of the Old Fund has been paid or has been provided for in its entirety, whichever occurs last.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10d. Changes in distribution of net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(d) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(e) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(f) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(g) (1) Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon certification of

the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2) (A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(C) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

§29-22A-10e. Changes in distribution of excess net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (a), section ten-b of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(b) The total amount of reductions resulting from subsection (a) of this section shall be paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this

article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(c) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(f)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(C) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-

three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.;

And,

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

Eng. Com. Sub. for Senate Bill 362—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; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 362) were reported by the Clerk and considered simultaneously:

On page six, by striking out all of sections ten-d and ten-e and inserting in lieu thereof a new section, designated ten-g, all to read as follows:

§29-22A-10g. Redirection of certain amounts from net terminal revenue.

“(a) The Governor may, by Executive Order, redirect seventy-five percent of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(b) The Governor is authorized to redirect deposits of revenues, pursuant to subsection (a) of this section, notwithstanding the following provisions of code:

(1) Paragraph (B), subdivision (9), subsection (c), section ten of this article;

(2) Paragraph (B), subdivision (9), subsection (a), section ten-b of this article;

(3) Subdivision (1), subsection (g), section ten-d of this article;

(4) Subdivision (1), subsection (f), section ten-e of this article; or

(5) Any other provision of this code to the contrary.”;

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §23-2C-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §29-22A-10g, all to read as follows;

And,

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

Eng. Com. Sub. Senate Bill 362—A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-22A-10g, 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; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.

Following discussion,

The question being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

Senator Ferns moved that the Senate concur in the House of Delegates amendments, as amended.

Following discussion,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 362, as amended, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 362) passed with its Senate amended title.

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

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

Eng. Senate Bill 364, Incorporating changes to Streamlined Sales and Use Tax Agreement.

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

Eng. Senate Bill 365, Maintaining solvency of Unemployment Compensation Fund.

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

Eng. Senate Bill 392, Relating to Municipal Police Officers and Firefighters Retirement System.

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

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

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

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

Eng. Com. Sub. for Senate Bill 398—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10 and §29-30-11, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; permitting volunteer health practitioners who are registered with a registration system and licensed and in good standing in the state upon which the practitioner's registration is based to practice in this state to the extent authorized by the article as if the practitioner were licensed in this state while an emergency declaration is in effect; providing that the provisions of this article do not affect credentialing or privileging standards of a health facility and do not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect; providing for sanctions; providing for relation to other laws; providing for limitation of liability; and providing for rulemaking by the Secretary of the Department of Health and Human Resources.

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

Engrossed Committee Substitute for Senate Bill 398, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 398) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 495, Relating to regulation of events by State Athletic Commission.

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

Eng. Com. Sub. for Senate Bill 505, Providing five-year reclamation period following completion of well pads for horizontal wells.

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

Eng. Senate Bill 564, Relating to Statewide Independent Living Council.

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

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

On page seven, section six, lines ninety-seven and ninety-eight, by striking out the words “to pay reasonable compensation to a member of the council”;

On page seven, section six, line ninety-nine, by striking out the words “for each day the member is engaged in performing council duties” and inserting in lieu thereof the following: to pay compensation to the member for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law.;

And,

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

Eng. Senate Bill 564—A Bill to amend and reenact §18-10M-2, §18-10M-4, §18-10M-6, §18-10M-7 and §18-10M-8 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Independent Living Council; making changes required by amendments to the federal Rehabilitation Act of 1973; updating definitions; modifying the functions and duties of the council; redesignating council relationships with centers for independent living and a designated state entity; providing for compensation and expense reimbursement for members engaged in official duties; requiring signatures for acceptance and approval of state plan and making conforming amendments.

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

Engrossed Senate Bill 564, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 564) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 566, Claims against state.

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

Eng. Com. Sub. for Senate Bill 581, Relating generally to administration of trusts.

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

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

Eng. Com. Sub. for Senate Bill 581—A Bill to amend and reenact §38-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-1-103 of said code; to amend said code by adding thereto a new section, designated §44D-1-113; to amend and reenact §44D-4-405 and §44D-4-414 of said code; to amend and reenact §44D-5-503b and §44D-5-505 of said code; to amend and reenact §44D-6-604 of said code; and to amend and reenact §44D-8-813 and §44D-8-817 of said code, all relating generally to trusts and their administration; eliminating requirement to give notice to trustee of substitution under certain circumstances; modifying definitions; establishing insurable interest of a trustee; clarifying scope of provisions regarding trust established for charitable purposes; increasing amount of noncharitable trust property to terminate trust without court approval; requiring self-settled spendthrift trust have one independent qualified trustee; adding reference to exceptions for self-settled spendthrift trusts to provision allowing creditor or assignee to reach amount distributed for grantor's benefit from irrevocable trust; removing reference to exceptions for self-settled spendthrift trusts to provisions allowing creditor or assignee to reach amount distributed for grantor's benefit from revocable trusts; changing references from beneficiary to interested person in limitation on actions to contest validity of revocable trust; modifying duties of trustee to inform and report to beneficiaries; granting trustee authority and requiring trustee to wind up administration of trust upon its termination; and making technical changes.

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

Engrossed Committee Substitute for Senate Bill 581, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 581) passed with its House of Delegates amended title.

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

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

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

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

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

A message from The Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

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

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Zatezalo, O'Neal and R. Miller.

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

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

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

Eng. House Bill 2522, Nurse licensure compact.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2017, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2561—A Bill to amend and reenact §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; and to amend said Code by inserting a new section, designated §18-9D-4d, all relating to public school support generally; 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 professional educator positions in excess of number employed; determining allowance for professional educator positions that exceed the number employed; 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 instructional personnel ratio for 2017-18 school year; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable service personnel 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; establishing that the teachers retirement fund allowance is factored on average retirement contribution rate of each county and establishing basis for determining the average retirement contribution rate; allowing limited portion of funds for bus purchases to be used for school 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; providing for prorating allowance for current expense among participating counties in joint school or program or service; adding the improvement of instructional technology to the allowance to improve instructional programs; 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; changing percentage of allocation allowed 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, for improving instructional technology for facility and equipment repair, maintenance and improvement, or replacement and other current expense priorities and for emergency purposes; requiring amounts used to be included and justified in respective strategic plans; authorizing School Building Authority to maintain a reserve fund in the amount of not less than \$600,000 for the purpose of making emergency grants to financially distressed county boards to assist them for certain purposes; directing grants to be made in accordance with guideline established by the authority and deleting expired provisions.

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

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

Eng. House Bill 2796, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services.

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

Eng. House Bill 2856, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train.

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

Com. Sub. for House Concurrent Resolution 78—Requesting the Division of Highways to name the Bridge Number 41-16-14.36 (PipeBridge) (37.74369, -81.22630) carrying WV Route 16 over Crab Orchard Creek in Raleigh County as the “Almond Brothers and Family Veterans Bridge.”

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 96—Requesting the Division of Highways to name Bridge Number 05-1/8-0.03 (05A079) (40.36929, -80.54590), locally know as Colliers Way Bridge, carrying County Route 1/8 over Harmon Creek in Brooke County, West Virginia, the “U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 103—Requesting the Division of Highways to name Bridge Number 12-3-0.02 (12A003) (39.11719, -79.16785), locally known as Maysville Bridge, carrying County Route 3 over Lunice Creek in Grant County, the “U S Army PFC Tracy Victor Rohrbaugh Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2520, Prohibiting the use of a tanning device by a person under the age of eighteen.

Eng. House Bill 2745, Adding the examination of Advanced Care Technician.

And,

Eng. Com. Sub. for House Bill 2846, Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee.

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

Respectfully submitted,

Tom Takubo,
Chair.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2637, Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage.

And has amended same.

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

Respectfully submitted,

Kenny Mann,
Chair.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2651, Relating generally to standardized testing requirements for nonpublic schools.

Eng. Com. Sub. for House Bill 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

Eng. Com. Sub. for House Bill 3061, Encouraging mastery-based education through the Innovation In Schools program.

And,

Eng. Com. Sub. for House Bill 3095, Allowing retired teachers to be employed by a higher education institution.

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

Respectfully submitted,

Kenny Mann,
Chair.

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

Your Committee on Military has had under consideration

Eng. Com. Sub. for House Bill 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

Ryan W. Weld,
Chair.

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

At the request of Senator Ferns, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2804) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2887, Relating to retirement and separation incentives.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Kenny Mann,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2887) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Ferns, the bill was referred to the Committee on Finance, with an amendment from the Committee on Education pending.

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

Your Committee on Education has had under consideration

House Concurrent Resolution 66, Sustainability of the state's current system of higher education.

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

Respectfully submitted,

Kenny Mann,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

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

Senate Concurrent Resolution 60—Designating the year 2017 as the Robert C. Byrd Centennial Legacy Year.

Whereas, November 20, 2017, marks the 100th anniversary of the birth of the late Senator Robert C. Byrd; and

Whereas, Senator Robert C. Byrd was the longest-serving United States Senator in United States history; and

Whereas, Senator Robert C. Byrd lives in the hearts and memories of West Virginians as one of the greatest citizens in the history of our state; and

Whereas, The West Virginia Legislature, in the year 2001, named Senator Robert C. Byrd the West Virginian of the Twentieth Century; and

Whereas, A special celebration of Senator Robert C. Byrd's life and career will occur at the Culture Center in Charleston, West Virginia. It will feature the exhibit Robert C. Byrd, Senator, Statesman, West Virginian, created by the Robert C. Byrd Center for Congressional History and Education at Shepherd University, as well as other exhibit materials, along with a program that will include the country music for which Senator Byrd was so well known; and

Whereas, It is the desire of the West Virginia Legislature to promote and honor Senator Robert C. Byrd's great legacy to this state and to the nation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby designates the year 2017 as The Robert C. Byrd Centennial Legacy Year; and, be it

Further Resolved, That the Senate encourages citizens, scholars, schools and public and private entities to mark this centennial with appropriate programs, lectures, public events, publications, feature stories, entertainments and other activities designed to reflect on Senator Robert C. Byrd's legacy and the history of the State of West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Robert C. Byrd Center for Congressional History and Education at Shepherd University.

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

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

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

The nays were: Azinger—1.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 60) adopted.

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

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Unger, Romano and Miller regarding the adoption of Senate Concurrent Resolution 60 were ordered printed in the Appendix to the Journal.

Senators Maynard, Stollings, Boso and Beach offered the following resolution:

Senate Concurrent Resolution 61—Requesting the Joint Committee on Government and Finance study the economic and health impacts of biking, hiking and other forms of activity tourism to increase the health and welfare of the citizens of West Virginia as well as tourism opportunities.

Whereas, Activity tourism is an area that has been growing strongly over the last 20 years; and

Whereas, Activity tourism covers a wide range of exciting, physical activities involving biking, hiking, canoeing, rock climbing, horseback riding and mountaineering, to the less physical, yet still activity-focused areas of nature watching, agritourism or local culture and heritage trails; and

Whereas, Government initiatives to promote healthier lifestyles have led to greater demand on existing facilities and on the creativity of its communities to develop activities that interest individuals and encourage involvement from residents and tourists alike; and

Whereas, West Virginia's economic development opportunities for activity tourism are endless and include walking and biking trails, rails-to-trails, triathlons, marathons, bike races, mountain biking, skiing, hiking, kayaking, rafting, zip lining, historical reenactments, the Appalachian and Great Eastern Trails, all of which result in beneficial economic activity in the state; and

Whereas, West Virginia's leaders, in partnership with both the public and private sectors, are implementing programs and strategies to increase exciting, physical activity to address the health crisis in the state by increasing the number of safe and accessible hiking and walking paths and trails and other events and races in West Virginia's communities to encourage residents to attend community events and exercise to combat the health crises, such as obesity, depression and drug use, that jeopardizes West Virginia's future; and

Whereas, The economic impacts and overwhelming potential for activity tourism in the state warrant study to the current resources in the state for activity tourism such as the trails, races and current events, and to determine how to develop more opportunities and promotion for activity tourism; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to study the economic and health impacts of biking, hiking and other forms of activity tourism to increase the health and welfare of the citizens of West Virginia as well as tourism opportunities; and, be it

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

Further Resolved, That input shall be sought from appropriate state and local agencies and organizations, including the Division of Tourism, the Division of Natural Resources, The Bureau for Public Health, the Department of Transportation, the Department of Education, local and regional planning and public health agencies, as well as local and statewide health, hiking, bicycle, tourism and related groups and organizations involved in these issues; and, be it

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

Which, under the rules, lies over one day.

Senators Rucker, Stollings, Takubo, Plymale, Unger, Boso and Beach offered the following resolution:

Senate Resolution 68—Designating April 5, 2017, as Nurses Unity Day at the Legislature.

Whereas, One in forty-three West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation and research to improve the health of West Virginia residents throughout the life span from prebirth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians not only in hospitals and long-term care facilities, but conveniently in their homes, at school, at work, at church, in community health centers, on the phone and on the Internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of advanced practice registered nurses as nurse anesthetists, nurse midwives and certified nurse practitioners in a variety of specialties provide improved cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the Most Trusted Professional for twelve years; therefore, be it

Resolved by the Senate:

That the Senate hereby designates April 5, 2017, as Nurses Unity Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses Unity Day.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Rucker, Beach, Stollings and Takubo regarding the adoption of Senate Resolution 68 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

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

Senate Resolution 69—Congratulating the Mingo Central Miners high school football team for winning the 2016 Class AA state football championship.

Whereas, The 2016 Mingo Central Miners football team had a dominant year on the field, finishing with a perfect 16-0 record, in route to winning the school's first ever football state championship; and

Whereas, The Mingo Central Miners football team roster consists of players: Josh Kinder, Thomas Harmon, Jeremy Dillon, Preston Dingess, Caleb Lester, Trey Lester, Javier Thacker, Lee Chafin, Devin Turner, Corey Robertson, Drew Hatfield, Corey Smith, Alvie Mack Simpkins, Aaron Mahon, Allen Richards, Ryan DeBoard, Gabe Berry, Tyler Grimmatt, Mark Heft, C. J. Joplin, Joe Hunt, Dalton Sheppard, Tanner Cisco, Austin Ray, Dougie Dillon, Dalton Fields, Jacob Lester, Andy Kinder, Seth Goad, Billy Mitchem, Robbie Daniels, Kaleb Hurley, Isaac Fox, Cameron Baisden, Randy Jones, Hunter Morgan, Branson Nagy, Adam Starr, Isaac Fox, Cameron Baisden, Randy Jones, Hunter Morgan, Branson Nagy, Adam Starr, Mikie Hatfield, Brad Collins, Mikey Hall, Trevor Layne, Zack Yates, Zach Curry, Daniel Buchanan and Chase Warden; and

Whereas, The Mingo Central football is led by head coach Yogi Kinder, and assistant coaches Joey Fields, Josh Sammons, Jacob Staton, Terry Jo Harrison, Hady Ford and Logan Lester; and

Whereas, The Mingo Central Miners football team beat every opponent by an average of just over twenty points per game this year, became the first team in county history to finish undefeated with a state title and set school records with 14 consecutive wins and a 14-game home game winning streak; and

Whereas, The 2016 Mingo Central Miners football team will go down in state history as one of the best football teams ever assembled in the State of West Virginia; and

Whereas, The Mingo Central Miners football team is a shining example to all West Virginians of what can be accomplished with dedication, commitment and teamwork; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Mingo Central Miners high school football team for winning the 2016 Class AA state football championship; and, be it

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

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Maynard, Stollings and Plymale regarding the adoption of Senate Resolution 69 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

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

Senate Resolution 70—Designating the month of April as Autism Awareness Month in West Virginia.

Whereas, The 8th Annual World Autism Awareness Day was April 2, 2016; and

Whereas, Every year, autism organizations around the world celebrate the day with unique fund-raising and awareness-raising events; and

Whereas, World Autism Awareness Day aims to increase awareness about people, especially children, with autism and often features educational events for teachers, health care workers and parents, as well as exhibitions showcasing work created by children with autism; and

Whereas, Autism is a developmental disability which affects the brain's functions and remains with a person for his or her whole life; and

Whereas, The first signs of autism usually appear before a child is three years old; and

Whereas, People with autism often find social interaction difficult, have problems with verbal and nonverbal communication, demonstrate restrictive and repetitive behavior and have a limited set of interests and activities; and

Whereas, Autism affects girls and boys of all races and in all geographic regions and has a large impact on children, their families, communities and societies; and

Whereas, The prevalence is currently rising in many countries around the world, and caring for and educating children and young people with this condition places challenges on health care, education and training programs; and

Whereas, Health officials estimate that one in every eighty-eight children in America is growing up on the autism spectrum; and

Whereas, Autism is a reality that affects millions of families every day, from the classroom to the job market; and

Whereas, On World Autism Awareness Day, the Senate encourages everyone to recommit to helping individuals on the autism spectrum reach their full potential; therefore, be it

Resolved by the Senate:

That the Senate hereby designates the month of April as Autism Awareness Month in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Kelli Caseman, State Director, Mountaineer Autism Project.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Rucker regarding the adoption of Senate Resolution 70 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and, 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 Concurrent Resolution 62 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the feasibility and benefits of eliminating or reforming the state’s civil service system in an effort to modernize personnel management policies for the state’s agencies, and with an overall purpose to improve efficiency and maximize the utility of existing human resources.

Whereas, There is a growing belief that West Virginia’s civil service system is fundamentally flawed, inhibiting the effective operation of government, preventing the implementation of meritocratic hiring and promotion practices, and ultimately resulting in the inefficient expenditure of West Virginia taxpayers’ hard-earned resources; and

Whereas, To rectify this problem, the current civil service system must be reformed with a view towards: (1) Providing the executive branch increased flexibility and freedom in personnel management decisions to promote the overall effectiveness and efficiency of state government; (2) allowing each department of state government to operate within a framework of personnel policies and practices that are best suited for that department; (3) ensuring that the state’s most valued resource, its employees, are managed in a manner to promote workforce productivity and sound business practices; (4) allowing the state to recruit, hire, advance, promote and terminate employees based on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial employment; (5) providing state employees equitable and adequate compensation based on merit, job performance, job value and competitiveness within applicable labor markets; and (6) treating applicants and employees in all aspects of personnel administration in compliance with all applicable state and federal equal employment opportunity and nondiscrimination laws; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the feasibility and benefits of eliminating or reforming the state’s civil service system in an effort to modernize personnel management policies for the state’s agencies, and with an overall purpose to improve efficiency and maximize the utility of existing human resources; and, be it

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

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

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

On motion of Senator Ferns, the resolution (S. C. R. 62) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 54, Requesting study of allowing teachers to post online schedule of calendar of activities.

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

Senate Concurrent Resolution 55, Requesting study on ways and methods of generating revenue to complete I-73 and I-74.

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

Senate Concurrent Resolution 56, Requesting study of creation and role of WV Motorsports Commission.

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

Senate Concurrent Resolution 57, Requesting study of feasibility of repurposing, renovating or disposing of vacated school buildings.

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

Senate Concurrent Resolution 58, Requesting study on benefits of using nonemployees to improve state parks or forests.

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

Senate Concurrent Resolution 59, Requesting study of allowing WV Disaster Recovery Board restore access to private property following natural disaster.

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

On motion of Senator Ferns, the recessed until 1 p.m. today.

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 199, Budget Bill.

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

Pending extended discussion,

(Senator Blair in the Chair.)

Pending extended discussion,

Senator Trump arose to a point of order that Senator Carmichael (Mr. President) yielded the floor to Senator Unger for questions, but Senate Unger had digressed to a discussion of the merits of Engrossed Committee Substitute for Senate Bill 199 and questions were no longer being asked.

Which point of order, the Chair ruled well taken.

Senator Trump moved the previous question, which motion prevailed.

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

The previous question having been ordered, that being on the passage of Engrossed Senate Bill 199.

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

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

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 199) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—20.

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

Absent: None.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns' aforestated motion had not prevailed.

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

Eng. Com. Sub. for Senate Bill 476, Expiring funds from Revenue Shortfall Reserve Fund to General Revenue.

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

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

Eng. Com. Sub. for House Bill 2006, Increasing the penalties for violating the Whistle-blower Law.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2006) passed with its title.

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

Eng. Com. Sub. for House Bill 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2083) passed.

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

Eng. Com. Sub. for House Bill 2083—A Bill to amend and reenact §60A-10-12 of the Code of West Virginia, 1931, as amended, relating to the Methamphetamine Laboratory Eradication Act; increasing the felony criminal penalty for knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured; clarifying that knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured and thereby causing the minor serious bodily injury is a separate, distinct offense; and clarifying the definition of serious bodily injury.

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

Eng. House Bill 2119, Repealing West Virginia Health Benefit Exchange Act.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2119) passed with its title.

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

Eng. Com. Sub. for House Bill 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2219) 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, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2219) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2303, Increasing criminal penalties for littering.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2303 pass?”

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

The nays were: Azinger and Rucker—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2303) passed.

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

Eng. Com. Sub. for House Bill 2303—A Bill to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of littering, clarifying that no person may place, deposit, dump throw or cause to be placed, deposited, dumped or thrown any litter on the private property of another, increasing criminal penalties for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing criminal penalties for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size, modifying the penalties for littering greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes, increasing penalties for second or subsequent violations for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing penalties for second or subsequent violations for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size and increasing civil penalties for littering, requiring magistrates or municipal court judges to consult with prosecuting attorneys before dismissing charges.

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

Eng. Com. Sub. for House Bill 2319, Relating to candidates or candidate committees for legislative office disclosing contributions.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2319 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Mann, Maroney, Mullins, Rucker, Smith, Sypolt, Takubo, Trump, Weld, Woelfel and Carmichael (Mr. President)—19.

The nays were: Azinger, Facemire, Hall, Jeffries, Karnes, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope and Unger—15.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2319) passed.

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

Eng. Com. Sub. for House Bill 2319—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; requiring members of Legislature who are candidates for public office to disclose existence of fund-raising event and receipt of all contributions within five business days after event; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office and who use fund-raising event to retire or pay-off debt to campaign while Legislature in session; clarifying that reporting under this section does not relieve a candidate or candidate's committee from regular reporting requirements; requiring Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State's website; authorizing the Secretary of State to establish a means for electronic filing and disclosure as an alternative; and authorizing the Secretary of State to promulgate legislative and emergency rules.

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

Eng. Com. Sub. for House Bill 2367, Establishing a criminal offense of organized retail crime.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2367) passed.

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

Eng. Com. Sub. for House Bill 2367—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3A-7, relating to establishing the offenses of organized retail theft and knowing purchase of materials obtained by organized retail theft; establishing elements of offenses; defining terms; establishing criminal penalties; providing for the cumulation of merchandise values; providing for prosecution in any county in which any part of an offense occurs; providing for seizure and forfeiture of cash, assets or other property derived in part or total from any proceeds from participating in a violation of the section; and authorizing a sentencing court to order disgorgement of illegal gains.

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

Eng. Com. Sub. for House Bill 2373, Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2373) passed.

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

Eng. Com. Sub. for House Bill 2373—A Bill to amend and reenact §18-5-22c of the Code of West Virginia, 1931, as amended, relating to the administration of epinephrine auto-injectors by a school nurse, nonmedical personnel or a school transportation employee to a student or school personnel; authorizing school transportation employees trained in administration of epinephrine auto-injectors and designated and authorized by the school or county board to administer auto-injectors to a student or school personnel experiencing an anaphylactic reaction and excluding such school transportation employees from section twenty-two, article five, chapter eighteen of said code; adding the county board as an entity that can authorize and designate nonmedical school personnel to administer the epinephrine auto-injector; establishing that school transportation employees are immune from liability for administration of an epinephrine auto-injector except in cases of gross negligence or willful misconduct; and requiring the State Board of Education to promulgate rules necessary to effectuate the provisions of this section.

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

Eng. House Bill 2427, Requiring agencies listed in the online state phone directory to update certain employee information.

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

Pending discussion,

The question being “Shall Engrossed House Bill 2427 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2427) passed with its title.

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

Eng. House Bill 2446, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2446) passed with its title.

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

Eng. Com. Sub. for House Bill 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2453) passed with its title.

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

Eng. Com. Sub. for House Bill 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2475) passed with its title.

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

Eng. House Bill 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2548) passed with its title.

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

Eng. Com. Sub. for House Bill 2619, Risk Management and Own Risk and Solvency Assessment Act.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2619) passed.

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

Eng. Com. Sub. for House Bill 2619—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9, §33-40B-10 and §33-40B-11, all relating to insurer risk management and solvency assessment; setting forth the purpose and scope of the article; defining terms; setting forth the requirement that insurers must maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks; setting forth and providing requirements for the own risk and assessment summary report; providing exemptions to the summary report requirements; providing confidentiality requirements related to the summary report; providing sanctions for failing to submit the summary report; providing for severability; and providing the effective date of this article.

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

Eng. Com. Sub. for House Bill 2676, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2676) passed with its title.

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

Eng. Com. Sub. for House Bill 2683, Relating to West Virginia Insurance Guaranty Association Act.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2683) passed with its title.

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

Eng. Com. Sub. for House Bill 2726, Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order.

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, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2726) passed with its title.

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

Eng. Com. Sub. for House Bill 2734, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2734) passed.

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

Eng. Com. Sub. for House Bill 2734—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-5-15, all relating to authorizing dealers of heavy equipment rental inventory to collect a fee from renters for the purpose of paying the dealers' property taxes on rental equipment; and establishing requirements for collection and remittance of such rental fees.

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

Eng. Com. Sub. for House Bill 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2767) passed.

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

Eng. Com. Sub. for House Bill 2767—A Bill to amend and reenact §31B-1-111 of the Code of West Virginia, 1931, as amended; to amend and reenact §31D-5-504 of said code; to amend and reenact §31E-5-504 of said code; to amend and reenact §47-9-4 of said code; and to amend and reenact §56-3-31, §56-3-33, §56-3-33a and §56-3-34 of said code, all relating to required service of process procedures for the Secretary of State generally; modifying service of process procedures for when Secretary of State acts as an agent for limited liability companies, certain corporations, limited partnerships, and certain nonresidents of the state; requiring the Secretary of State to create a preservation duplicate of certain refused or undeliverable process, notice or demand; authorizing the Secretary of State to destroy or otherwise dispose of original returned or undeliverable mail; and requiring the Secretary of State provide written notice of such action to the circuit clerk's office of the court from which certain process, notice or demand was issued by certified mail, facsimile or by electronic mail.

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

Eng. Com. Sub. for House Bill 2898, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2898 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2898) passed with its title.

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

Eng. Com. Sub. for House Bill 2939, Relating to the sale of items in the State Police Academy post exchange to the public.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2939 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2939) passed with its title.

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

Eng. Com. Sub. for House Bill 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2949) passed with its title.

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

Eng. House Bill 2963, Eliminating tax lien waiver requirement for estates of nonresidents.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2963) passed with its title.

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

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

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

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

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

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

Eng. Com. Sub. for Senate Bill 221, Relating to composition of PEIA Finance Board.

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

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

On page one, section four, line two, by striking out the word “eight” and inserting in lieu thereof the word “nine”;

On page one, section four, line twelve, by striking out the word “eight” and inserting in lieu thereof the word “nine”;

On page two, section four, after line thirty-eight, by inserting a new paragraph, designated paragraph (E), to read as follows:

(E) One member shall represent the interests of organized labor. The member must generally have knowledge pertaining to employee benefit programs. The Governor shall appoint the member representing the interests of organized labor from a list of three names submitted by the state’s largest organization representing labor affiliates.;

And,

By relettering the remaining paragraph.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 221) and requested the House of Delegates to recede therefrom.

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

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

Eng. Com. Sub. for Senate Bill 386, Creating WV Medical Cannabis Act.

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all to read as follows:

CHAPTER 16A. MEDICAL CANNABIS ACT

ARTICLE 1. SHORT TITLE

§16A-1-1. Short title

This chapter is in honor of James William “Bill” Flanigan and Lucile Gillespie and shall be known and cited as the West Virginia Medical Cannabis Act.

ARTICLE 2. DEFINITIONS**§16A-2-1. Definitions**

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Act” means the West Virginia Medical Cannabis Act and the provisions contained in chapter sixty-a of this code.

(2) “Advisory board” means the advisory board established under article eleven of this chapter.

(3) “Bureau” mean the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) “Caregiver” means the individual designated by a patient or, if the patient is under 18 years of age, an individual under article five, to deliver medical cannabis.

(5) “Certified medical use” means the acquisition, possession, use or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient’s serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) “Change in control” means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) “Commissioner” means the Commissioner of the Bureau for Public Health.

(8) “Continuing care” means treating a patient for at least six months, in the course of which the practitioner has completed a full assessment of the patient’s medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) “Controlling interest” means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) “Dispensary” means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(11) "Family or household member" means the same as defined in section two hundred four, article twenty-seven, chapter forty-eight of this code.

(12) "Financial backer" means an investor, mortgagee, bondholder, note holder or other source of equity, capital or other assets, other than a financial institution.

(13) "Financial institution" means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union or a savings bank.

(14) "Form of medical cannabis" means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical cannabis or particular active ingredient.

(15) "Fund" means the Medical Cannabis Program Fund established in section two, article nine of this chapter.

(16) "Grower" means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(17) "Grower/processor" means either a grower or a processor.

(18) "Identification card" means a document issued under article five of this chapter that authorizes access to medical cannabis under this act.

(19) "Individual dose" means a single measure of medical cannabis.

(20) "Medical cannabis" means cannabis for certified medical use as set forth in this act.

(21) "Medical cannabis organization" means a dispensary, grower or processor. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(22) "Patient" means an individual who:

(A) has a serious medical condition;

(B) has met the requirements for certification under this act; and

(C) is a resident of this state.

(23) "Permit" means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(24) 'Physician' means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either article three or article fourteen of chapter thirty of this code to practice medicine and surgery in this state.

(25) "Post-traumatic stress disorder" means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor or psychologist.

(26) "Practitioner" means a physician who is registered with the bureau under article four of this chapter.

(27) "Prescription drug monitoring program" means the West Virginia Controlled Substances Monitoring program under article nine chapter sixty-a

(28) "Principal" means an officer, director or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

(29) "Processor" means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to process medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(30) "Registry" means the registry established by the bureau for practitioners.

(31) "Serious medical condition" means any of the following, as has been diagnosed as part of a patient's continuing care:

(A) Cancer.

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.

(C) Amyotrophic lateral sclerosis.

(D) Parkinson's disease.

(E) Multiple sclerosis.

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington's disease.

(J) Crohn's disease.

(K) Post-traumatic stress disorder.

(L) Intractable seizures.

(M) Sickle cell anemia.

(N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care.

(O) Terminally ill.

(32) "Terminally ill." A medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

ARTICLE 3. MEDICAL CANNABIS PROGRAM

§16A-3-1. Establishment of program.

(a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

(1) Issue permits to medical cannabis organizations to authorize them to grow, process or dispense medical cannabis and ensure their compliance with this act.

(2) Register practitioners and ensure their compliance with this act.

(3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical cannabis in this State.

(4) Establish and maintain an electronic database to include activities and information relating to medical cannabis organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical cannabis as required under this act to include:

(A) Ensurance that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization.

(B) Ability to establish the authenticity of identification cards.

(C) Recording recommended forms of medical cannabis provided in a certification filed by the practitioner.

(D) Monitoring all growth, transfer, possession, processing, testing and dispensing of medical cannabis in this state.

(E) The tracking system under article seven of this chapter must include information under section one, article eight of this chapter and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau's database.

(6) Develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis, and other information deemed necessary by the bureau. Successful completion of the course shall be approved as continuing education credits as determined by:

(A) The State Board of Medicine.

(B) The State Board of Osteopathic Medicine.

(7) Develop a two-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than 90 days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards.

(B) Proper handling of medical cannabis and recordkeeping.

(C) Any other subject required by the bureau.

(8) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical cannabis organizations.

(9) Establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants.

(10) Establish and maintain public outreach programs about the medical cannabis program, including:

(A) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis under this act.

(B) A publicly accessible Internet website with similar information.

(11) Collaborate as necessary with other State agencies or contract with third parties as necessary to carry out the provisions of this act.

(12) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary.

(13) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau.

(14) Restrict the advertising and marketing of medical cannabis, which shall be consistent with the Federal rules and regulations governing prescription drug advertising and marketing.

(b) The bureau shall propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code as may be necessary to carry out and implement the provisions of this act. The bureau shall also have the power to propose and promulgate emergency rules as may be necessary to carry out and implement the provisions of this act.

§16A-3-2. Lawful use of medical cannabis.

(a) Notwithstanding any provision of law to the contrary, the use or possession of medical cannabis as set forth in this act is lawful within this State, subject to the following conditions:

(1) Medical cannabis may only be dispensed to:

(A) a patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the bureau; and

(B) a caregiver who is in possession of a valid identification card issued by the bureau.

(2) Subject to rules promulgated under this act, medical cannabis may only be dispensed to a patient or caregiver in the following forms:

(A) pill;

(B) oil;

(C) topical forms, including gels, creams or ointments;

(D) a form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules adopted by the bureau;

(E) tincture;

(F) liquid; or

(G) dermal patch.

(3) Unless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

(4) An individual may not act as a caregiver for more than five patients.

(5) A patient may designate up to two caregivers at any one time.

(6) Medical cannabis that has not been used by the patient shall be kept in the original package in which it was dispensed.

(7) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical cannabis.

(8) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the form and species of medical cannabis, the percentage of tetrahydrocannabinol and cannabidiol contained in the product.

§16A-3-3. Unlawful use of medical cannabis.

(a) Except as provided in section two of this article, section four of article seven, article thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter sixty-a of this code.

(b) It shall be unlawful to:

(1) Smoke medical cannabis.

(2) Except as provided under subsection (c), incorporate medical cannabis into edible form or sell in edible form.

(3) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.

(4) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under article thirteen of this chapter.

(5) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.

(c) *Edible medical cannabis.*—Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient.

§16A-3-4. Confidentiality

(a) *Patient information.* — The bureau shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the bureau relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code, including specifically the following:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the West Virginia State Police under section two, article five of this chapter.

(5) Information relating to the patient's serious medical condition.

(b) *Public information.* — The following records are public records and shall be subject to the Freedom of Information Act, under chapter twenty-nine-b of this code:

(1) Applications for permits submitted by medical cannabis organizations.

(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this State. All other practitioner registration information shall be confidential and exempt from public disclosure under the Freedom of Information Act.

(3) Information relating to penalties or other disciplinary actions taken against a medical cannabis organization or practitioner by the bureau for violation of this act.

§16A-3-5. Reciprocity for terminally ill cancer patients.

The bureau may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article to allow terminally ill cancer patients to purchase medical cannabis in another state.

ARTICLE 4. PRACTITIONERS.

§16A-4-1. Registration.

(a) *Eligibility.* — A physician included in the registry is authorized to issue certifications to patients to use medical cannabis. To be eligible for inclusion in the registry:

(1) A physician must apply for registration in the form and manner required by the bureau.

(2) The bureau must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the bureau.

(3) The physician must have successfully completed the course under subsection (a), section one, article three of this chapter.

(b) *Bureau action.* —

(1) The bureau shall review an application submitted by a physician to determine whether to include the physician in the registry. The review shall include information regarding whether the physician has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state and whether the physician has been subject to discipline.

(2) The inclusion of a physician in the registry shall be subject to annual review to determine if the physician's license is no longer valid, has expired or been revoked or the physician has been subject to discipline. If the license is no longer valid, the bureau shall remove the physician from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended state license to practice medicine in West Virginia.

(3) The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine shall report to the bureau the expiration, suspension or revocation of a physician's license and any disciplinary actions in a timely fashion.

(c) *Practitioner requirements.*—A practitioner included in the registry shall have an ongoing responsibility to immediately notify the bureau in writing if the practitioner knows or has reason to know that any of the following is true with respect to a patient for whom the practitioner has issued a certification:

(1) The patient no longer has the serious medical condition for which the certification was issued.

(2) Medical cannabis would no longer be therapeutic or palliative.

(3) The patient has died.

§16A-4-2. Practitioner restrictions.

(a) *Practices prohibited.* — The following shall apply with respect to practitioners:

(1) A practitioner may not accept, solicit or offer any form of remuneration from or to a prospective patient, patient, prospective caregiver, caregiver or medical cannabis organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical cannabis.

(2) A practitioner may not hold a direct or economic interest in a medical cannabis organization.

(3) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical cannabis.

(b) *Unprofessional conduct.* — A practitioner who violates subsection (a) of this section shall not be permitted to issue certifications to patients and shall be removed from the registry.

(c) *Discipline.* — In addition to any other penalty that may be imposed under this act, a violation of subsection (a) of this section or subsection (f), section three of this article shall be deemed unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the practitioner to discipline by the West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine, as appropriate.

§16A-4-3. Issuance of certification.

(a) *Conditions for issuance.* — A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has been approved by the bureau for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient's health care record.

(3) The patient is under the practitioner's continuing care for the serious medical condition.

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis, and other treatments, including treatments involving opioids, have proven ineffective or otherwise are contraindicated.

(b) *Contents.* — The certification shall include:

(1) The patient's name, date of birth and address.

(2) The specific serious medical condition of the patient.

(3) A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner's continuing care for the serious medical condition.

(4) The date of issuance.

(5) The name, address, telephone number and signature of the practitioner.

(6) Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(c) *Consultation.* — (1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.

(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) *Other access by practitioner.* — A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.

(e) *Duties of practitioner.* — The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient's health care record.

(f) *Prohibition.* — A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

§16A-4-4. Certification form.

The bureau shall develop a standard certification form, which shall be available to practitioners upon request. The form shall be available electronically. The form shall include a statement that a false statement made by a practitioner is punishable under the applicable provisions of law.

§16A-4-5. Duration.

Receipt of medical cannabis by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

ARTICLE 5. PATIENTS.

§16A-5-1. Identification cards.

(a) *Issuance.* — The bureau may issue an identification card to a patient who has a certification approved by the bureau and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical cannabis as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical cannabis on behalf of the patient.

(b) *Procedure for issuance.* — The bureau shall develop and implement procedures for:

- (1) Review and approval of applications for identification cards.
- (2) Issuance of identification cards to patients and caregivers.
- (3) Review of the certification submitted by the practitioner and the patient.

(c) *Application.* — A patient or a caregiver may apply, in a form and manner prescribed by the bureau, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

- (1) The name, address and date of birth of the patient.
- (2) The name, address and date of birth of a caregiver.
- (3) The certification issued by the practitioner.
- (4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of subsection (a), section three, article four of this chapter have been met.
- (5) A \$50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship.

(6) The signature of the applicant and date signed.

(7) Other information required by the bureau.

(d) *Forms.* — Application and renewal forms shall be available on the bureau's publicly accessible Internet website.

(e) *Expiration.* — An identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) *Separate cards to be issued.* — The bureau shall issue separate identification cards for patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

(g) *Change in name or address.* — A patient or caregiver who has been issued an identification card shall notify the bureau within 10 days of any change of name or address. In addition, the patient shall notify the bureau within 10 days if the patient no longer has the serious medical condition noted on the certification.

(h) *Lost or defaced card.* — In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the bureau within 10 business days of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the bureau and accompanied by a \$25 fee. The bureau may establish higher fees for issuance of second and subsequent replacement identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial hardship. The bureau shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical cannabis until the bureau issues the replacement card.

§16A-5-2. Caregivers.

(a) *Requirements.* —

(1) If the patient designates a caregiver, the application shall include the name, address and date of birth of the caregiver, and other individual identifying information required by the bureau and the following:

(A) Federal and State criminal history record information as set forth in subsection (b) of this section.

(B) If the caregiver has an identification card for the caregiver or another patient, the expiration date of the identification card.

(C) Other information required by the bureau.

(2) The application shall be accompanied by a fee of \$50. The bureau may waive or reduce the fee in cases of demonstrated financial hardship.

(3) The bureau may require additional information for the application.

(4) The application shall be signed and dated by the applicant.

(b) *Criminal history.* — A caregiver shall submit fingerprints for the purpose of obtaining criminal history record checks, and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the bureau may be interpreted and used by the bureau only to determine the applicant's character, fitness and suitability to serve as a caregiver under this act. The bureau shall also review the prescription drug monitoring program relating to the caregiver. The bureau shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the felony sale or possession of drugs, narcotics or controlled substances, or conspiracy thereof. The bureau may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.

§16A-5-3. Notice.

An application for an identification card shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-5-4. Verification.

The bureau shall verify the information in a patient or caregiver's application and on any renewal form.

§16A-5-5. Special conditions.

The following apply:

(1) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the identification card shall expire on that date.

(2) If the certification so provides, the identification card shall state any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

§16A-5-6. Minors.

If a patient is under 18 years of age, the following shall apply:

(1) The patient shall have a caregiver.

(2) A caregiver must be one of the following:

(A) A parent or legal guardian of the patient.

(B) An individual designated by a parent or legal guardian.

(C) An appropriate individual approved by the bureau upon a sufficient showing that no parent or legal guardian is appropriate or available.

§16A-5-7. Caregiver authorization and limitations.

(a) *Age.*—An individual who is under 21 years of age may not be a caregiver unless a sufficient showing, as determined by the bureau, is made to the bureau that the individual should be permitted to serve as a caregiver.

(b) *Changing caregiver.*—If a patient wishes to change or terminate the designation of the patient's caregiver, for whatever reason, the patient shall notify the bureau as soon as practicable. The bureau shall issue a notification to the caregiver that the caregiver's identification card is invalid and must be promptly returned to the bureau.

(c) *Denial in part.*—If an application of a patient designates an individual as a caregiver who is not authorized to be a caregiver, that portion of the application shall be denied by the bureau. The bureau shall review the balance of the application and may approve that portion of it.

§16A-5-8. Contents of identification card.

An identification card shall contain the following:

(1) The name of the caregiver or the patient, as appropriate. The identification card shall also state whether the individual is designated as a patient or as a caregiver.

(2) The date of issuance and expiration date.

(3) An identification number for the patient or caregiver, as appropriate.

(4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the bureau by rule. The bureau shall provide reasonable accommodation for a patient who is confined to the patient's home or is in inpatient care.

(5) Any requirement or limitation set by the practitioner as to the form of medical cannabis.

(6) Any other requirements determined by the bureau, except the bureau may not require that an identification card disclose the patient's serious medical condition.

§16A-5-9. Suspension.

If a patient or caregiver intentionally, knowingly or recklessly violates any provision of this act as determined by the bureau, the identification card of the patient or caregiver may be suspended or revoked. The suspension or revocation shall be in addition to any criminal or other penalty that may apply.

§16A-5-10. Prohibitions.

(a) The following prohibitions shall apply:

(1) A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than 3 nanograms of active tetrahydrocannabinis per milliliter of blood in serum:

(A) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(B) High-voltage electricity or any other public utility.

(C) Vehicle, aircraft, train, boat or heavy machinery.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical cannabis.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-1. Authorized medical cannabis organizations.

The following entities shall be authorized to receive a permit to operate as a medical cannabis organization to grow, process or dispense medical cannabis:

(1) Growers.

(2) Processors.

(2) Dispensaries.

§16A-6-2. Permits.

(a) Application.—An application for a grower, processor or dispensary permit to grow, process or dispense medical cannabis shall be in a form and manner prescribed by the bureau and shall include:

(1) Verification of all principals, operators, financial backers or employees of a medical cannabis grower/processor or dispensary.

(2) A description of responsibilities as a principal, operator, financial backer or employee.

(3) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(4) A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the West Virginia State Police for the purpose of obtaining criminal history record checks and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers, operators

and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal, financial backer, operator and employee under this act. This subdivision shall not apply to an owner of securities in a publicly traded corporation if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization.

(5) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(6) A description of the business activities in which it intends to engage as a medical cannabis organization.

(7) A statement that the applicant:

(A) Is of good moral character. For purposes of this subparagraph, an applicant shall include each financial backer, operator, employee and principal of the medical cannabis organization.

(B) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(C) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to medical cannabis.

(D) Is able to comply with all applicable State laws and rules relating to the activities in which it intends to engage under this act.

(8) The name, residential address and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application setting forth:

(A) Any position of management or ownership during the preceding 10 years of a controlling interest in any other business, located inside or outside this State, manufacturing or distributing controlled substances.

(B) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical cannabis suspended or revoked in any administrative or judicial proceeding.

(9) Any other information the bureau may require.

(b) *Notice.*—An application shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-6-3. Granting of permit.

(a) The bureau may grant or deny a permit to a grower, processor or dispensary. In making a decision under this subsection, the bureau shall determine that:

- (1) The applicant will maintain effective control of and prevent diversion of medical cannabis.
 - (2) The applicant will comply with all applicable laws of this State.
 - (3) The applicant is a resident of this State, or is organized under the law of this State.
 - (4) The applicant is ready, willing and able to properly carry on the activity for which a permit is sought.
 - (5) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings and equipment to properly grow, process or dispense medical cannabis.
 - (6) It is in the public interest to grant the permit.
 - (7) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.
 - (8) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution or the dispensing of medical cannabis as required by the bureau.
 - (9) The applicant satisfies any other conditions as determined by the bureau.
- (b) *Nontransferability*.—A permit issued under this chapter shall be nontransferable.
- (c) *Privilege*.—The issuance or renewal of a permit shall be a revocable privilege.
- (d) *Regions*.—The bureau shall establish a minimum of three regions within this State for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The bureau shall approve permits for growers, processors and dispensaries in a manner which will provide an adequate amount of medical cannabis to patients and caregivers in all areas of this State. The bureau shall consider the following when issuing a permit:
- (1) Regional population.
 - (2) The number of patients suffering from serious medical conditions.
 - (3) The types of serious medical conditions.
 - (4) Access to public transportation.
 - (5) Approval by local Health Bureaus.
 - (6) Whether the county has disallowed the location of a grower, processor or dispensary.
 - (7) Any other factor the bureau deems relevant.

§16A-6-4. Notice.

When the boundaries under subsection (d), section three of this article are established, the bureau shall publish notice of the determination in the State Register. The bureau may adjust the

boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the State Register.

§16A-6-5. Application and issuance.

(a) *Duty to report.*—An applicant to be a grower/processor or to operate a dispensary is under a continuing duty to:

(1) Report to the bureau any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the medical cannabis organization.

(2) Report to law enforcement, within 24 hours, any loss or theft of medical cannabis.

(3) Submit to announced or unannounced inspections by the bureau of the facilities for growing, processing, dispensing or selling medical cannabis, including all records of the organization.

(b) *Additional information.*—If the bureau is not satisfied that the applicant should be issued a permit, the bureau shall notify the applicant in writing of the factors for which further documentation is required. Within 30 days of the receipt of the notification, the applicant may submit additional material to the bureau.

§16A-6-6. Fees and other requirements.

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of \$2,500 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this State or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

§16A-6-7. Issuance.

A permit issued by the bureau to a medical cannabis organization shall be effective only for that organization and shall specify the following:

(1) The name and address of the medical cannabis organization.

(2) The activities of the medical cannabis organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical cannabis organization.

(4) Any other information required by the bureau.

§16A-6-8. Relocation.

The bureau may approve an application from a medical cannabis organization to relocate within this State or to add or delete activities or facilities.

§16A-6-9. Terms of permit.

A permit issued by the bureau shall be valid for one year from the date of issuance.

§16A-6-10. Permit renewals.

(a) *Renewal.*—An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical cannabis organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(A) any incident involving the theft, loss or possible diversion of medical cannabis grown, processed or dispensed by the applicant; and

(B) compliance by the applicant with the laws of this State with respect to any substance listed under article two of chapter sixty-a.

(b) *Approval.*—The bureau shall renew a permit unless the bureau determines that:

(1) The applicant is unlikely to maintain or be able to maintain effective control against diversion of medical cannabis.

(2) The applicant is unlikely to comply with all laws of this State applicable to the activities in which it may engage under the permit.

(c) *Nonrenewal decision.*—The denial or nonrenewal shall specify in detail how the applicant has not satisfied the bureau's requirements for renewal. Within 30 days of the bureau's decision, the applicant may submit additional material to the bureau or demand a hearing, or both. If a hearing is demanded, the bureau shall fix a date as soon as practicable.

§16A-6-11. Suspension or revocation.

The bureau may suspend or revoke a medical cannabis organization permit if:

(1) The bureau has evidence that the medical cannabis organization has failed to maintain effective control against diversion of medical cannabis.

(2) The organization violates any provision of this act or a rule of the bureau.

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this State relating to medical cannabis.

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under article fourteen of this chapter, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances, or conspiracy thereof:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, shall be in the discretion of the bureau.

§16A-6-13. Limitations on permits.

(a) The following limitations apply to approval of permits for growers, processors and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau may not issue permits to more than ten growers: *Provided*, That each grower may have up to two locations per permit.

(2) The bureau may not issue permits to more than ten processors.

(3) The bureau may not issue permits to more than thirty dispensaries, with no more than 5 in any region.

(4) The bureau may not issue more than two individual dispensary permits to one person.

(5) The bureau may not issue more than one individual grower permit to one person.

(6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

(9) A grower or a processor may not be a dispensary.

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the Board of Health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the County has not voted, pursuant to section six, article seven of this chapter to disapprove a medical cannabis organization to be located or operate within the county.

ARTICLE 7. MEDICAL CANNABIS CONTROLS.

§16A-7-1. Electronic tracking.

(a) *Requirement.*—A medical cannabis organization must implement an electronic inventory tracking system which shall be directly accessible to the bureau through its electronic database that electronically tracks all medical cannabis on a daily basis. The system shall include tracking of all of the following:

(1) For a grower or processor, a seed-to-sale tracking system that tracks the medical cannabis from seed to plant until the medical cannabis is sold to a dispensary.

(2) For a dispensary, medical cannabis from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a medical cannabis organization, a daily log of each day's beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking system shall include prices paid and amounts collected from patients and caregivers.

(4) For a medical cannabis organization, a system for recall of defective medical cannabis.

(5) For a medical cannabis organization, a system to track the plant waste resulting from the growth of medical cannabis or other disposal, including the name and address of any disposal service.

(b) *Additional requirements.*—In addition to the information under subsection (a) of this section, each medical cannabis organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical cannabis.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) *Access.*—(1) Information maintained in electronic tracking systems under subsection (a) of this section shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code.

(2) Pursuant to conditions and procedures established by the bureau, law enforcement shall be provided access to the tracking system.

(d) *Reports.*—Within one year of the issuance of the first permit to a medical cannabis organization, and every three months thereafter in a form and manner prescribed by the bureau, the following information shall be provided to the bureau, which shall compile the information and post it on the bureau's publicly accessible Internet website:

(1) The amount of medical cannabis sold by a grower and a processor during each three-month period.

(2) The price of amounts of medical cannabis sold by growers and processors as determined by the bureau.

(3) The amount of medical cannabis purchased by each dispensary in this State.

(4) The cost of amounts of medical cannabis to each dispensary in amounts as determined by the bureau.

(5) The total amount and dollar value of medical cannabis sold by each dispensary in the three-month period.

§16A-7-2. Grower/processors.

(a) *Authorization.*—Subject to subsection (b), a grower or processor may do all of the following in accordance with bureau rules:

(1) Obtain seed from outside this State to initially grow medical cannabis.

(2) Obtain seed and plant material from another grower/processor within this State to grow medical cannabis.

(b) *Limitations.*— A grower or processor may only grow, store, harvest or process medical cannabis in an indoor, enclosed, secure facility which:

(1) includes electronic locking systems, electronic surveillance and other features required by the bureau; and

(2) is located within this State.

§16A-7-3. Storage and transportation.

The bureau shall develop rules relating to the storage and transportation of medical cannabis among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system developed by the bureau shall include all transportation and storage of medical cannabis. The rules shall provide for the following:

(1) Requirements relating to shipping containers and packaging.

(2) The manner in which trucks, vans, trailers or other carriers will be secured.

(3) Security systems that include a numbered seal on the trailer.

(4) Obtaining copies of drivers' licenses and registrations and other information related to security and tracking.

(5) Use of GPS systems.

(6) Number of drivers or other security required to ensure against storage or in-transit losses.

(7) Recordkeeping for delivery and receipt of medical cannabis products.

(8) Requirements to utilize any electronic tracking system required by the bureau.

(9) Transporting medical cannabis to a grower/processor, approved laboratory or dispensary.

§16A-7-4. Laboratory.

A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

§16A-7-5. Prices.

The bureau and the Department of Revenue shall monitor the price of medical cannabis sold by growers, processors and by dispensaries, including a per-dose price. If the bureau and the Department of Revenue determine that the prices are unreasonable or excessive, the bureau may implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

§16A-7-6. County prohibition.

A county may pass an ordinance by vote of the residents of the county to prohibit the operation or location of a medical cannabis organization within that particular county. A prohibition under this section shall remain in effect unless and until changed by a subsequent vote.

ARTICLE 8. DISPENSARIES.**§16A-8-1. Dispensing to patients and caregivers.**

(a) *General rule.*—A dispensary that has been issued a permit under article six of this chapter may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

(1) The name, address and any identification number assigned to the dispensary by the bureau.

(2) The name and address of the patient and caregiver.

(3) The date the medical cannabis was dispensed.

(4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

(b) *Requirements.*—A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph, successfully complete the course established in subsection (a), section one, article three of this chapter. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at the dispensary.

(c) *Filing with bureau.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(d) *Limitations.*—No dispensary may dispense to a patient or caregiver:

(1) a quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) a form of medical cannabis prohibited by this act.

(e) *Supply.*—When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to section five, article four of this chapter.

(f) *Verification.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) of this section by consulting the electronic

tracking system included in the bureau's electronic database established under section one, article three of this chapter and the dispensary tracking system under section one, article seven of this chapter.

(g) *Form of medical cannabis.*—Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

(h) *Safety insert.*—When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Any other information as determined by the bureau.

(i) *Sealed and labeled package.*—Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed, properly labeled and child-resistant package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

“This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant's pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.”

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

§16A-8-2. Facility requirements.

(a) General rule.—

(1) A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this State, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) *Adjustment or waiver of prohibition.*—The bureau may amend a prohibition under subsection (a)(3) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

§16A-8-3. Posting.

A dispensary shall post a copy of its permit in a location within its facility in a manner that is easily observable by patients, caregivers, law enforcement officers and agents of the bureau.

ARTICLE 9. TAX ON MEDICAL CANNABIS.**§16A-9-1. Tax on medical cannabis.**

(a) *Tax imposed.*—A tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, to be paid by the grower/processor, at the rate of 10%. The tax shall be charged against and be paid by the grower/processor and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price paid by a dispensary, patient or caregiver.

(b) *Payment of tax and reports.*—A grower/processor shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of January, April, July and October for the preceding calendar quarter on a form prescribed by the Department of Revenue.

(c) *Deposit of proceeds.*—All money received from the tax imposed under subsection (a) shall be deposited into the fund.

(d) *Exemption.*—Medical cannabis shall not be subject to a sales tax.

(e) *Information.*—A grower/processor that sells medical cannabis shall provide to the Department of Revenue information required by the bureau.

§16A-9-2. Medical Cannabis Program Fund.

(a) *Fund established.*—The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) *Source of funds.*—Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) *Use of proceeds.*— Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.

ARTICLE 10. ADMINISTRATION.**§16A-10-1. Administration.**

The Commissioner of the Bureau of Public Health may establish and create an Office of Medical Cannabis within the Bureau to assist in the administration and enforcement of the provisions of this act.

§16A-10-2. Reports by medical cannabis organizations.

A medical cannabis organization shall periodically file reports related to its activities. The bureau shall determine the information required in and the frequency of filing the reports.

§16A-10-3. Law enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the bureau may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this act. In addition, the bureau shall verify to law enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.

§16A-10-4. Evaluation.

The bureau may provide for an analysis and evaluation of the implementation and effectiveness of this act. The bureau may enter into agreements with one or more persons for the performance of an evaluation of the implementation and effectiveness of this act.

§16A-10-5. Report.

(a) *Report required.*—The bureau shall submit a written report under subsection (b) of this section every two years, beginning two years after the effective date of this section, to the following:

- (1) The Governor.
- (2) The Joint Committee on Government and Finance.
- (3) The Attorney General of the State.

(b) *Contents of report.*—The following information shall be included in the report:

- (1) An assessment of the use of medical cannabis as a result of the enactment of this act.
- (2) An assessment of the benefits and risks to patients using medical cannabis under this act, including adverse events.
- (3) Recommendations for amendments to this act for reasons of patient safety or to aid the general welfare of the citizens of this State.

§16A-10-6. Emergency rules.

(a) *Promulgation*—In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) *Expiration*—The bureau's authority to adopt emergency rules under subsection (a) of this section shall expire two years after the effective date of this section. Rules adopted after this period shall be promulgated as provided by law.

(c) *Publication*—The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.**§16A-11-1. Advisory board.**

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

- (1) The commissioner or a designee.
- (2) The Superintendent of the West Virginia State Police or a designee.

(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

- (A) Family Practice/Neurologist/General Practitioner
- (B) Pain Management
- (C) Oncologist/Palliative Care
- (D) Psychiatrist.

(4) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(5) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(6) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(7) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(8) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(9) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(10) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) *Terms.*—Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) *Chair.*—The commissioner, or a designee, shall serve as chair of the advisory board.

(d) *Voting; quorum.*— A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) *Attendance.*—A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) *Governance.*—The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) *Initial terms.*—The initial terms of members appointed under shall be for terms of one, two, three or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) *Vacancy.*—In the event that any member appointed under subsection (a) of this section shall die or resign or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) *Expenses.*—A member shall receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the duties of the member in accordance with State rules, but shall receive no other compensation for the member's service on the board.

(j) *Duties.*—The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this State.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue two years after the effective date of this section a written report to the Governor, the Senate and the House of Delegates

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add or reduce the number of growers, processors or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

§16A-11-2. Rules based on recommendations of advisory board.

After receiving the report of the advisory board, at the discretion of the commissioner, the bureau may promulgate rules to effectuate recommendations made by the advisory board. The

commissioner shall issue notice in the State Register within 12 months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the commissioner on whether or not to effectuate each recommendation.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.

§16A-12-1. Criminal diversion of medical cannabis by practitioners.

In addition to any other penalty provided by law, a practitioner who intentionally and knowingly certifies a person as being able to lawfully receive medical cannabis or who otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-2. Criminal diversion of medical cannabis.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, “qualifying entity” shall mean:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) A laboratory utilized to test medical cannabis under section four, article seven of this chapter.

§16A-12-3. Criminal retention of medical cannabis.

In addition to any other penalty provided by law, any patient or caregiver who intentionally and knowingly possesses, stores or maintains an amount of medical cannabis in excess of the amount legally permitted is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than six months.

§16A-12-4. Criminal diversion of medical cannabis by patient or caregiver.

In addition to any other penalty provided by law, any patient or caregiver that intentionally and knowingly provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-5. Falsification of identification cards.

In addition to any other penalty provided by law, any person who commits one of the following, knowing he or she is not privileged to hold an identification card,

(1) possesses an identification card and either attempts to use the card to obtain medical cannabis or obtains medical cannabis;

(2) possesses an identification card which falsely identifies the person as being lawfully entitled to receive medical cannabis and either attempts to use the card to obtain medical cannabis or obtains medical cannabis; or

(3) possesses an identification card which contains any false information on the card and the person either attempts to use the card to obtain medical cannabis or obtains medical cannabis, is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than twelve months.

§16A-12-6. Adulteration of medical cannabis.

In addition to any other penalty provided by law, any person who adulterates, fortifies, contaminates or changes the character or purity of medical cannabis from that set forth on the patient's or caregiver's identification card, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-7. Disclosure of information prohibited.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal who discloses, except to authorized persons for official governmental or health care purposes, any information related to the use of medical cannabis:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) An employee of the bureau.

(b) *Exception.*—Subsection (a) of this section shall not apply where disclosure is permitted or required by law or by court order.

§16A-12-8. Additional penalties.

(a) *Civil penalties*—In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than \$10,000 for each violation and an additional penalty of not more than \$1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

- (A) The gravity of the violation.
- (B) The potential harm resulting from the violation to patients, caregivers or the general public.
- (C) The willfulness of the violation.
- (D) Previous violations, if any, by the person being assessed.
- (E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a rule promulgated under this act or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) *Sanctions.*—

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration.

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

(E) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) *Costs of action.*—The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) *Minor violations.*—Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau

determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

§16A-12-9. Other restrictions.

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using medical cannabis in a State correctional facility or regional jail authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the regional jail authority, which houses inmates serving a portion of their sentences on parole or other community correction program.

(3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit utilized for sexually violent delinquent children.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Health care medical cannabis organization." A vertically integrated health system approved by the bureau to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under this chapter.

(2) "Vertically integrated health system." A health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.

§16A-13-2. Establishment of medical cannabis research program.

(a) *Program to be established.*—The bureau shall establish and develop a research program to study the impact of medical cannabis on the treatment and symptom management of serious medical conditions. The program shall not include a clinical registrant or academic clinical research center under article fourteen of this chapter.

(b) *Bureau duties.*—The bureau shall:

(1) Review all serious medical conditions which are cited by a practitioner upon the practitioner's certification that a patient be granted an identification card.

(2) Create a database of all serious medical conditions, including comorbidities, which are cited by practitioners in the certifications of patients. The database shall also include the form of medical cannabis certified to treat each serious medical condition.

(3) When the database contains 25 or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical cannabis on the condition.

(4) Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration, publicly announce the formation of a research study to which a vertically integrated health system and a university within this State may submit a request to participate.

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to conduct the research study and designate the form or forms of medical cannabis which will be used to treat the serious medical condition.

(6) Notify a patient who has been issued an identification card:

(A) that the patient has been selected to participate, at the patient's option, in a research study to study medical cannabis as a treatment; and

(B) where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c).

(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration for a research study on the same condition.

(c) *Costs.*—The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) *Geographic accessibility.*—The bureau shall take into consideration the geographic location of the health care medical cannabis organization when assigning a patient to a health care medical cannabis organization. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within 50 miles of the patient's residence.

(e) *Data.*—Data collected by the health care medical cannabis organization shall be provided to the university participating in the research study for analysis.

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage universities within this State to participate in the collection, collation, analysis and conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by health care medical cannabis organizations with respect to:

(1) Real time inventory tracking.

(2) Real time tracking of the medical cannabis dispensed.

(3) Recall of defective medical cannabis.

(b) Request for distributions.—The bureau shall establish a form and procedure for universities selected to participate in a research study to request distributions from the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

(1) The form or forms of medical cannabis to be studied.

(2) The serious medical condition to be studied.

(c) *Research reports.*—

(1) A vertically integrated health system shall report on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects.

(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration's and the United States Drug Enforcement Administration's approval for the research study.

(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau and made publicly available within 180 days of the initiation of a research study for a specific serious medical condition.

(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter.

§16A-13-4. Approval.

A vertically integrated health system located in this State may petition the bureau to participate in a research study to study a serious medical condition. Approval of the vertically integrated health system as a health care medical cannabis organization by the bureau shall authorize access within a region under subsection (d), section three, article six of this chapter to medical cannabis for all patients included in an approved research study.

§16A-13-5. Requirements.

(a) *Dispensing.*—A health care medical cannabis organization that dispenses medical cannabis shall:

(1) Maintain licensure with the bureau.

(2) Secure the medical cannabis within the associated pharmacies of the health care medical cannabis organization in a manner and method prescribed by the bureau.

(3) Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis.

(4) Report the utilization rates of those patients participating in the research of medical cannabis and treatment options.

(5) Only dispense medical cannabis received from a grower, processor or a health care medical cannabis organization that is approved to grow and process medical cannabis.

(6) Provide all patients or caregivers with the safety insert, prepared by the bureau, which includes potential dangers, recognition and correction of problematic dosage and any other information required by the bureau or which the bureau deems relevant for patient safety.

(b) *Growing and processing.*—A health care medical cannabis organization that grows and processes medical cannabis shall:

(1) Maintain licensure with the bureau

(2) Only make available medical cannabis to health care medical cannabis organizations that dispense medical cannabis.

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.

§16A-13-6. Restrictions.

A health care medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.

§16A-13-7. Rules.

The bureau shall, by rule, establish the procedure to be used by a health care medical cannabis organization that grows and processes medical cannabis with respect to:

(1) Real time inventory tracking, including a seed-to-dispensing tracking system that tracks medical cannabis from seed or immature plant stage until the medical cannabis is provided to a patient in a research study.

(2) Security, recordkeeping, record retention and surveillance systems relating to every stage of growing and processing medical cannabis.

(3) A daily log of each day's beginning inventory, acquisitions, disbursements, disposals and ending inventory.

(4) A system to recall defective medical cannabis.

(5) A system to track the plant waste resulting from the growth of medical cannabis.

(6) Testing of medical cannabis by an independent laboratory to test the medical cannabis produced by the health care medical cannabis organization, including requiring a test at harvest and a test at final processing.

(7) Any other procedure deemed necessary by the bureau.

§16A-13-8. Nonentitlement.

Nothing in this chapter shall be construed to create an entitlement or right of a patient to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS.

§16A-14-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Academic clinical research center" means an accredited medical school within this State that operates or partners with an acute care hospital licensed within this State.

(2) "Clinical registrant" means an entity that:

(A) holds a permit as a grower, processor and a dispensary; and

(B) has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

§16A-14-2. Clinical registrants.

Notwithstanding the limitations in section thirteen, article six of this chapter, the bureau may register up to four clinical registrants, and subject to the following:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor and a dispensary,

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical cannabis.

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

- (i) The reason for the research project, including the reason for the trial.
 - (ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study.
 - (iii) The anticipated duration of the study.
 - (iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.
 - (v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.
- (2) The academic clinical research center shall provide its findings to the bureau within 365 days of the conclusion of the research study or within 365 days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.
- (3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

ARTICLE 15. MISCELLANEOUS PROVISIONS.

§16A-15-1. Conflict.

The growth, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of medical cannabis permitted under this act shall not be deemed to be a violation of the provisions of the Uniform Controlled Substance Act under chapter sixty-a. If a provision of Uniform Controlled Substance Act under chapter sixty-a relating to cannabis conflicts with a provision of this act, this act shall take precedence.

§16A-15-2. Financial and employment interests.

(a) *Financial interests.*—Except as may be provided for the judiciary by rule or order of the West Virginia Supreme Court, an executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(b) *Employment.*—Except as may be provided by rule or order of the West Virginia Supreme Court, no executive-level public employee, public official or party officer, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

§16A-15-3. Insurers.

Nothing in this act shall be construed to require an insurer or a health plan, whether paid for by State funds or private funds, to provide coverage for medical cannabis.

§16A-15-4. Protections for patients and caregivers.

(a) Licensure.—None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a State licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

(1) A patient.

(2) A caregiver.

(3) A practitioner.

(4) A medical cannabis organization.

(5) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(6) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(7) An employee, principal or financial backer of a medical cannabis organization.

(8) An employee of a health care medical cannabis organization or an employee of a university participating in a research study under article thirteen of this chapter.

(9) An employee of a clinical registrant or an employee of an academic clinical research center under article fourteen of this chapter.

(b) *Employment.*—

(1) No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location or privileges solely on the basis of such employee's status as an individual who is certified to use medical cannabis.

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act shall in no way limit an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee's conduct falls below the standard of care normally accepted for that position.

(3) Nothing in this act shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of Federal law.

§16A-15-5. Schools.

The Bureau of Education shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a student on the grounds of a preschool, primary school and a secondary school.

(2) Possession and use of medical cannabis by an employee of a preschool, primary school and a secondary school on the grounds of such school.

§16A-15-6. Day-care centers.

The Bureau shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a child under the care of a child-care or social service center licensed or operated by the Bureau of Human Services.

(2) Possession and use of medical cannabis by an employee of a child-care or social service center licensed or operated by the Bureau of Human Services.

(3) Possession and use of medical cannabis by employees of a youth development center or other facility which houses children adjudicated delinquent.

§16A-15-7. Zoning.

The following apply:

(1) A grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

(2) A dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district.

(3) A municipality may enact an ordinance prohibiting or limiting the number and type of medical cannabis organizations permitted to operate in the municipality, including the time, place, and manner of operation.

§16A-15-8. Notice to bureau.

(a) A municipality that enacts a restrictive ordinance pursuant to section seven of this article, shall promptly notify the bureau of such action

(b) A county commission shall notify the bureau if a county votes to prohibit allowance of a medical cannabis organization pursuant to section six, article seven of this chapter

§16A-15-9. Applicability.

The issuance of permits and other authorizations shall begin upon publication of a notice by the bureau in the State Register that adequate emergency or permanent rules have been adopted to initiate the program under this act.

ARTICLE 16. EFFECTIVE DATE.**§16A-16-1. Effective date**

(a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective upon passage.

(b) The provisions of article twelve of this chapter, and any other criminal provisions or penalties contained in this act, shall not be effective until ninety days from passage of Senate Bill 386 during the 2017 Regular Session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.;

And,

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

Eng. Com. Sub. for Senate Bill 386—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new chapter, designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all relating generally to creating a regulatory program for the lawful production and use of medical cannabis; providing for the regulation of all activities associated with the manufacture, processing, dispensing and consumption of medical cannabis for certain serious medical conditions; providing for state regulation of all activities; creating civil and criminal penalties for violations of law relating to production, processing, dispensing and consumption of medical cannabis; and setting an effective date.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 386) were reported by the Clerk and considered simultaneously:

On page five, section one, subsection (a), subdivision (32), by striking out the word "A" and inserting in lieu thereof the words "means a";

On page twenty-three, section three, subsection (d), subdivision (5), by striking out the word “Bureau” and inserting in lieu thereof the word “departments”;

On page forty-one, section two, by striking out the words “promulgate rules” and inserting in lieu thereof the words “propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code”;

On page fifty-three, section two, by striking out all of subsections (a) and (b) and inserting in lieu thereof the following:

(a) *Financial interests* — A public official, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.

(b) *Employment*—No public official, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.

(c) For purposes of this section, “public official” and “immediate family” shall have the same definitions as those phrases are defined in section three, article one, chapter six-b of this code.;

On page fifty-four, section five, by striking out the word “Bureau” and inserting in lieu thereof the word “Department”;

On page fifty-five, section six, subdivision (1), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”;

On page fifty-five, section six, subdivision (2), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”;

And,

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

Eng. Com. Sub. for Senate Bill 386—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all relating to medical cannabis generally; authorizing under limited conditions the use, possession, growing, processing and dispensing of cannabis for serious medical conditions; creating the West Virginia Medical Cannabis Act; defining terms; establishing medical cannabis program; placing the medical cannabis program

within the Department of Health and Human Resources and under the direction of the Bureau of Public Health; listing duties of the bureau of public health in the implementation and administration of the medical cannabis program; establishing lawful use and forms of medical cannabis; ensuring patient confidentiality; designating certain records as public records; authorizing reciprocity agreements to allow terminally ill cancer patients to obtain medical cannabis in other states; requiring registration of physicians who may issue certificates to patients allowing them to obtain medical cannabis; establishing requirements for certified physicians; placing limits on physician practices related to medical cannabis; authorizing issuance of certificates to medical cannabis patients and establishing conditions required for issuance of certificates; establishing limits on duration of certification and on amounts of medical cannabis which may be dispensed to a patient; authorizing issuance of identification cards to patients and caregivers and setting forth content of identification cards; establishing fees for patients, caregivers, physicians, growers, processors and dispensers; authorizing patients to have caregivers and establishing requirements for caregivers; requiring the bureau of public health to verify information supplied by patients and caregivers; authorizing minors to obtain medical cannabis through caregivers and establishing qualifications for minors' caregivers; prohibiting certain actions and behaviors by patients while they are using medical cannabis; authorizing and defining medical cannabis organizations; establishing permitting processes for growers, processors and dispensers of medical cannabis; requiring criminal background checks for caregivers, growers, processors and dispensers of medical cannabis; establishing terms for permits; authorizing renewal of permits and establishing requirements for renewal; authorizing the bureau to suspend or revoke permits of medical cannabis growers, processors, and dispensers for violations; establishing limits on who may hold permits; establishing limits on who may hold positions or employment with growers, processors and dispensers; setting limits on number of permits that may be issued; requiring medical cannabis inventory tracking systems; requiring reporting by medical cannabis organizations; requiring rules for storage and transportation of medical cannabis; requiring medical cannabis organizations to contract with laboratories for testing of medical cannabis; requiring the bureau and the Department of Revenue to monitor the prices of medical cannabis; authorizing counties to prohibit medical cannabis organizations from being located within their county; establishing requirements for dispensaries; providing for imposition and collection of a tax; establishing the medical cannabis program fund; allocating monies placed in the fund; establishing the Office of Medical Cannabis within Bureau of Public Health; requiring reporting by medical cannabis organizations; authorizing the bureau to notify law enforcement of violations of the act; authorizing rule-making; establishing the medical cannabis advisory board; establishing requirements for advisory board membership; establishing terms for advisory board members; establishing duties of the advisory board; establishing criminal offenses related to medical cannabis and setting penalties therefor; establishing confidentiality requirements for advisory board members and employees; authorizing civil penalties and setting amounts thereof for violations of the medical cannabis act; authorizing research in medical cannabis by the bureau; authorizing medical cannabis advisory board to issue recommendations as to forms of cannabis use and other issues; authorizing the bureau to implement recommendations of the advisory board; requiring publication of bureau actions and decisions in the State Register; authorizing academic research regarding medical cannabis and its uses; establishing requirements to be an academic research institution; exempting medical cannabis manufacture, distribution, possession and processing in compliance with the act from the provisions of the Uniform Controlled Substances Act; limiting persons who may hold an interest in medical cannabis organizations or employment thereby; clarifying that insurance companies are not required to provide medical cannabis coverage; limiting the arrest, prosecution, imposition of penalty, denial of any right or privilege for lawful use, manufacture, sale or dispensing of medical cannabis; requiring the Department of Education to promulgate rules regarding possession and use of medical cannabis in schools; requiring the bureau to promulgate rules regarding possession and use of medical cannabis in day-care centers; authorizing zoning

restrictions on medical cannabis organizations; requiring notice to the bureau of zoning restrictions; requiring publication in the state register of permits and authorizations issued; requiring issuance of permits and authorizations only after publication of same in the state register; and establishing effective dates.

Following discussion,

The question being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

Senator Ferns moved that the Senate concur in the House of Delegates amendments, as amended.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 386, as amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 386 pass?"

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

The nays were: Azinger, Boley, Hall, Maroney, Takubo and Weld—6.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 386) passed with its Senate amended title.

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

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

Eng. Com. Sub. for Senate Bill 588, Relating to reproduction, distribution and sale of tax maps.

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

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

On page nine, section ten, line thirty-one, after the word “code” by inserting a comma and the words “\$1 to the county 911 center,”;

And,

On page nine, section ten, line thirty-two, by striking out “\$3” and inserting in lieu thereof “\$2”.

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

Engrossed Committee Substitute for Senate Bill 588, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 588) passed with its title.

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

At the request of Senator Smith, and by unanimous consent, the Senate stood in observance of a moment of silence in recognition of the seventh anniversary of the Upper Big Branch Mine disaster.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate recessed until 6:30 p.m. today.

Night Session

Upon expiration of the recess, the Senate reconvened and proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 7:04 p.m. tonight:

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

The Senate proceeded to the ninth order of business.

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

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

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

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

That §60-7-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of article sixteen, chapter eleven, or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

(1) Revoke the licensee's license;

(2) Suspend the licensee's license;

(3) Place the licensee on probationary status for a period not to exceed twelve months; and

(4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby created. All moneys collected, received and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, and shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of \$20,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession or distribution of narcotics or controlled substances, shall be mandatory grounds for revocation of the licensee's license for a period of at least one year.

(d) In addition to the grounds for revocation, suspension or other sanction of a license set forth in this section, the commissioner may, in his or her discretion, revoke, suspend or otherwise sanction a licensee for failing to alert, in a timely manner, emergency medical services or law

enforcement of a life-threatening medical emergency occurring on the premises of the licensee's private club.

(e) If a life threatening medical emergency occurs on a licensee's private premises requiring notification under subsection (d) of this section, the licensee shall notify the Alcohol Beverage Control Administration within forty-eight hours of the emergency's occurrence. The commissioner may, in his or her discretion, revoke, suspend or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.

The bill (Eng. Com. Sub. for H. B. 2129), as amended, was then ordered to third reading.

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

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

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

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

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

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

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk, considered simultaneously, and adopted:

On page eight, section four, line eighty-three, by striking out "\$7,500" and inserting in lieu thereof \$9,500";

On page eight, section four, lines eighty-seven and eighty-eight, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

"(3) This amount will be increased every five years on September 1 of the fifth year based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; and";

And,

On page eight, section four, after line ninety-four, by inserting a new paragraph, designated paragraph (D), to read as follows:

(D) The motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section.

The bill (Eng. Com. Sub. for H. B. 2402), as amended, was then ordered to third reading.

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

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

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

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

Eng. Com. Sub. for House Bill 2546, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned.

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

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

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

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

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

On page two, section one, after line twenty-five, by inserting a new subsection, designated subsection (d), to read as follows:

(d) Apprentices shall be legal residents. — In addition to other requirements of this section, in order for a taxpayer to claim the credit created in this section, the taxpayer shall require any apprentice for whom it claims a credit to submit to an employment eligibility check through the E-verify system, administered by United States Citizenship and Immigration Services;

And,

By relettering the remaining subsections.

On motion of Senator Jeffries, the following amendment to the bill (Eng. Com. Sub. for H. B. 2555) was next reported by the Clerk:

On page two, section one, line twenty, by changing the period to a colon and inserting the following proviso: Provided, That in order to ensure this tax credit does not subsidize the payment of the minimum wage, an apprentice working for the participating taxpayer may not be paid an hourly wage less than \$2 above the applicable minimum wage per hour.

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

The bill (Eng. Com. Sub. for H. B. 2555), as amended, was then ordered to third reading.

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

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

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

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

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it ~~shall be~~ is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than ~~one year~~ a determinate term of not less than one nor more than fifteen years, or fined not more than \$25,000, or both;

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than five ten years, or fined not more than \$15,000, or both; Provided, That for the substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred four, article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than ~~three~~ five years, or fined not more than \$10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, one hundred grams or more of phencyclidine, ten grams or more of lysergic acid diethylamide, or fifty grams or more of methamphetamine or five hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than thirty years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one hundred but fewer than 1000 grams of heroin, not less than five hundred but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than ninety-nine grams of phencyclidine, not less than one but fewer than ten grams of lysergic acid diethylamide, or not less than five but fewer than fifty grams of methamphetamine or not less than fifty grams but fewer than five hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than twenty years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than ten grams nor more than one hundred grams of heroin, not less than fifty grams nor more than five hundred grams of cocaine or cocaine base, not less than two grams nor more than ten grams of phencyclidine, not less than two hundred micrograms nor more than one gram of lysergic acid diethylamide, or not less than four hundred ninety nine milligrams nor more than five grams of methamphetamine or not less than twenty grams nor more than fifty grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than fifteen years.

~~(e)~~(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 2579), as amended, was then ordered to third reading.

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

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all to read as follows:

ARTICLE 15. MONEY LAUNDERING.

§61-15-1. Definitions.

As used in this article, unless the context clearly indicates otherwise:

(1) "Conducts" includes, but is not limited to, initiating, concluding, participating in, or assisting in a transaction.

(2) "Criminal activity" means a violation of:

(A) The felony provisions of section eleven, article forty-one, chapter thirty-three of this code;

(B) Felony violations of chapter sixty-a of this code;

(C) Felony violations of article two of this chapter;

(D) The provisions of sections one, two, three, four, five, eleven, twelve, subsection (a), section thirteen, fourteen, eighteen, nineteen, twenty, twenty-a, twenty-two, twenty-four, twenty-four-a, twenty-four-b and twenty-four-d, article three of this chapter;

(E) Felony provisions of article three-c, three-e and four of this chapter;

(F) The provisions of section eight, article eight of this chapter; and

(G) The felony provisions of articles eight-a, eight-c and fourteen of this chapter.

(3) "Cryptocurrency" means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and which operate independently of a central bank.

(4) "Financial institution" means a financial institution as defined in 31 U. S. C. §5312 which institution is located in this state.

(5) "Financial transaction" means a transaction which effects intrastate, interstate or foreign commerce, and:

(A) Involves the movement of funds by wire or other means;

(B) Involves the use of a monetary instrument;

(C) Involves the transfer of title to real or personal property; or

(D) Involves the use of a financial institution which is engaged in, or the activities of which effect intrastate, interstate or foreign commerce.

(6) "Gift card" means a card, voucher or certificate which contains or represents a specific amount of money issued by a retailer or financial institution to be used as an alternative to cash purposes.

(7) "Knowing" means actual knowledge. For purposes of this article, a person may be considered to have actual knowledge if the belief is based upon representations of a law-enforcement officer engaged in his or her official duties while acting in an undercover capacity or a person acting at the direction of a law-enforcement officer engaged in his or her official duties.

(8) "Monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, gift cards, prepaid credit cards, money orders, cryptocurrency, investment securities in bearer form or otherwise in such form that title

thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(9) "Proceeds" means property or monetary instrument acquired or derived, directly or indirectly, from, produced through, realized through, or caused by an act or omission and includes property, real or personal, of any kind.

(10) "Property" means anything of value, and includes any interest therein, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, and monetary instruments.

(11) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected.

§61-15-2. Laundering through financial transactions.

(a) It is unlawful for any person to conduct or attempt to conduct a financial transaction involving the proceeds of criminal activity knowing that the property involved in the financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity:

(1) With the intent to promote the carrying on of the criminal activity; or

(2) Knowing that the transaction is designed in whole or part:

(i) To conceal or disguise the nature, location, source, ownership, or control of the proceeds of the criminal activity; or

(ii) To avoid any transaction reporting requirement imposed by law.

(b) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is less than \$1,000 is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined and fined.

(c) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is not less than \$1,000 nor more than \$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than five years, or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(d) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction in excess of \$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than ten years, or fined not less than \$5,000 nor more than \$25,000, or both imprisoned and fined.

§61-15-3. Forfeiture; disgorgement.

(a) Any property or monetary instruments involved in a violation of this article, and any property or monetary instruments traceable to the violation, may be seized and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in article seven, chapter sixty-a of this code: *Provided*, That in any forfeiture proceeding pursuant to this section, the burden of proof shall be by clear and convincing evidence.

(b) Notwithstanding subsection (a) of this section, the court, as part of sentencing for a violation under this article, may direct the disgorgement to a victim of any property or monetary instruments involved in the violation and any property or monetary instruments traceable to the violation.

§61-15-4. Distinguishing transactions for prosecution purposes.

(a) Notwithstanding any other provision to the contrary, each transaction committed in violation of this article constitutes a separate offense.

The bill (Eng. Com. Sub. for H. B. 2585), as amended, was then ordered to third reading.

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

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-15g; and that said code be amended by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-5, §18-21A-6 and §18-21A-7, all to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.**§18-5-15g. Vocational education classes for homeschooled and private schooled students.**

County boards shall permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools, if the county offers vocational classes either itself or through a joint vocational program or service with another county or counties. These students may not be charged more than public school students of compulsory school age.

ARTICLE 21A. CAREER AND TECHNICAL EDUCATION PILOT PROGRAM FOR MIDDLE SCHOOL STUDENTS.**§18-21A-1. Short title.**

This article may be cited as the Middle School Technical Education Program Act or the Middle School STEP Act.

§18-21A-2. Legislative findings.

(a) Career and technical education prepares students to be both college and career ready by providing core academic, technical and employability skills.

(b) High-quality career and technical education programs not only ensure that coursework is aligned with rigorous academic standards and post-secondary expectations, but are built to address specific skills needed in certain career pathways.

(c) Eighty percent of students taking a college preparatory academic curriculum with rigorous career and technical education courses met college and career readiness goals, compared to only sixty-three percent of students taking the same academic core who did not experience rigorous career and technical education courses.

(d) Furthermore, a 2008, study from American College Testing showed that if students are not on target for college and career readiness by the end of eighth grade the impact may be nearly irreversible. The level of academic achievement that students attain by eighth grade has a larger impact on their college and career readiness by the time they graduate from high school than any other academic factor.

(e) Given the importance of career and technical education programs in fostering college and career readiness, and the determinative impact that eighth grade achievement has on future academic and professional success, it is essential that middle school students are informed about and prepared to take advantage of career and technical education programs in their local communities.

§18-21A-3. Purpose.

The purpose of the pilot program shall be to better prepare seventh and eighth grade students to take advantage of West Virginia's Career and Technical Education programs and to improve students' college and career readiness prior to high school. For the purposes of this article, "middle school" means any school containing the seventh and eighth grade levels.

§18-21A-4. Organization of special pilot program.

(a) Funding. – Participating middle schools shall use existing resources to implement the pilot program.

(b) Instructor Qualifications. – Qualified instructors include, but are not limited to, teachers, counselors and other middle school staff possessing a post-secondary degree. Instructors are not required to obtain any additional certification or license to instruct the course. Nothing in this article or chapter eighteen-a or this code prohibits principals or vice-principals, on a voluntary basis, from participating in the program as a guest instructor or speaker.

(c) Elective Course. – The pilot program shall be a one semester elective course: *Provided*, That middle schools with alternative scheduling systems may adapt the program to suit their scheduling needs.

(d) Local Partners. – High schools, vocational schools, community colleges, public universities and any other institute of higher learning that receives funding from the State of West Virginia

shall provide speakers to participating middle schools upon the middle school's request: *Provided*, That the entity providing the speaker is located within fifty miles of the requesting middle school.

§18-21A-5. Curriculum.

(a) Guest Speakers. – Course instructors shall schedule weekly guest speakers to introduce students to a particular career and to prepare students to pursue the featured career by providing relevant information on:

- (1) Education requirements;
- (2) Cost of education;
- (3) Availability of education;
- (4) Average salary;
- (5) Average longevity; and
- (6) Transferability of skills.

Instructors are encouraged to invite professionals excelling in fields where training is available at the local career and technical education school.

(b) On-Site Research. – Instructors may organize field trips to visit local employers, job fairs, high schools, vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions to introduce students to potential career paths via on-site presentations and experiential learning.

(c) Career Skills. – The course shall include instruction on skill sets required to discover and take advantage of employment opportunities, including, but not limited to:

- (1) Performing a job search;
- (2) Developing a résumé;
- (3) Preparing for a job interview; and
- (4) Developing and deploying personal networks to find job opportunities.

(d) Academic Skills. – The course shall include instruction on skill sets required to discover and take advantage of educational opportunities, including, but not limited to:

(1) Researching admissions requirements for vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(2) Researching employment rates and average salaries for graduates of vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(3) Researching employment rates and average salaries for specific degrees, certifications and majors from post-secondary academic institutions;

(4) Researching state, federal and private scholarship and grant opportunities; and

(5) Preparing a college or technical school application.

(e) Personal Graduation Plan. – For successful completion of the course, a student shall create a “Personal Graduation Plan” outlining his or her plan to become employable following high school or post-secondary school.

§18-21A-6. Admission process for middle schools.

(a) Authority. – The state board shall establish guidelines for middle schools to submit a request for the school’s admission in the pilot program and the state board may admit middle schools into the pilot program.

(b) Admissions. – Middle schools may volunteer to implement the program by submitting a request to the state board and admission shall be on a first-come, first-serve basis.

(c) Minimum School Participation. – It is the goal of the pilot program that a minimum of ten middle schools participate each year during the pilot program’s existence. If ten middle schools have not been admitted into the program by July 1 preceding the academic year, the state board may solicit additional middle schools to participate in the pilot program to meet the minimum participation goal, but may not require the participation of any middle school.

§18-21A-7. Certification and monitoring.

(a) Certificate of Completion. – Students shall receive a West Virginia STEP Certificate verifying their participation in the pilot program upon successful completion of the course.

(b) Monitoring. – The state board shall report to the Legislative Oversight Commission on Education Accountability each year on the graduation, post-secondary participation, and to the extent practicable, job placement rates, in the aggregate, of students that have received a West Virginia STEP Certificate following successful completion of the pilot program.

The bill (Eng. Com. Sub. for H. B. 2589), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2603, Relating to municipal policemen’s or firemen’s pension and relief funds that are funded at one hundred and twenty-five percent or more.

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

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

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

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

On pages eighteen and nineteen, by striking out all of section eleven and inserting in lieu thereof the following:

§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

~~(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:~~

(a) The board may refuse to issue a license, suspend or revoke a license, fine a licensee, order restitution or rehabilitative action by a licensee, or order a combination thereof for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court; Provided, That if the conviction is for an offense that involves the transfer, delivery or illicit possession of a prescription drug, then the board shall revoke or refuse to issue the license of the convicted physician or physician's assistant for a period of time until the physician or physician's assistant demonstrates a record of rehabilitation and that he or she has the integrity, moral character and professional competence to practice in this state;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one's own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs; or

(9) Knowingly failing to report to the board any act of gross misconduct committed by another licensee of the board.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

The bill (Eng. H. B. 2628), as amended, was then ordered to third reading.

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

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

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

On page two, section five, line sixteen, after the word "ruling." by inserting the following: The time period for final ruling shall be tolled for any delay requested or caused by the accused or by counsel for the accused and in no event shall a complaint proceeding be dismissed for exceeding the time standards in this section when such overage is the result of procedural delay or obstructive action by the accused or his or her counsel or agents.;

On page two, section five, lines seventeen through twenty-three, by striking out all of subsection (d);

And,

By relettering the remaining subsections.

The bill (Eng. Com. Sub. for H. B. 2631), as amended, was then ordered to third reading.

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

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

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

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

ARTICLE 20. WOMEN'S COMMISSION.

~~§29-20-1. Membership; appointment and terms of members; organization; reimbursement for expenses.~~ Termination of the Women's Commission.

~~The West Virginia commission on the status of women is hereby abolished, and there is hereby continued within the Department of Health and Human Resources the West Virginia women's commission, to consist of eighteen members, seven of whom shall be ex officio members, not entitled to vote: The Attorney General, the state superintendent of Schools, the commissioner of labor, the commissioner of the bureau of human resources of the Department of Health and Human Resources, the director of the Human Rights Commission, the director of the Division of Personnel and the chancellor of the board of directors of the state college system. Each ex officio member may designate one representative employed by his or her department to meet with the commission in his or her absence. The Governor shall appoint the additional eleven members, by and with the advice and consent of the Senate, from among the citizens of the state. The Governor shall designate the chairman and vice chairman of the commission and the commission may elect such other officers as it deems necessary. The members shall serve a term beginning July 1, 1977, three to serve for a term of one year, four to serve for a term of two years and the remaining four to serve for a term of three years. The successors of the members initially appointed as provided herein shall be appointed for a term of three years each in the same manner as the members initially appointed under this article, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was~~

~~appointed shall be appointed for the remainder of such term. Each member shall serve until the appointment and qualification of his or her successor.~~

~~No member may receive any salary for his or her services, but each may be reimbursed for actual and necessary expenses incurred in the performance of his or her duties out of funds received by the commission under section four of this article, except that in the event the expenses are paid, or are to be paid, by a third party, the members shall not be reimbursed by the commission. The Women's Commission is declared to be terminated and shall not exist after June 30, 2018. Pursuant to the provisions of sections twelve and thirteen, article ten, chapter four of this code, the commission shall wind up its affairs, arrange for the disposition of its funds, assets, equipment and records, and cease all activities before July 1, 2018.~~

The bill (Eng. Com. Sub. for H. B. 2646), as amended, was then ordered to third reading.

Eng. House Bill 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber.

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

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

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

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

On page two, section four, lines fourteen through seventeen, after the word "family" by changing the colon to a period and striking out the proviso;

On page two, section four, line thirty-one, after the word "and" by striking out the period;

On page two, section four, line thirty-four, by striking out the word "not" and inserting in lieu thereof the word "no";

On page two, section four, after line thirty-five, by inserting a new subsection, designated subsection (b), to read as follows:

(b) In the case of three total unexcused absences of a student during a school year, the attendance director or assistant may serve notice by written or other means to the parent, guardian, or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal, administrative head or other chief administrator may be required.;

And by relettering the remaining subsections;

And,

On page three, section four, line forty-nine, after the word "make" by inserting the word "a".

The bill (Eng. Com. Sub. for H. B. 2702), as amended, was then ordered to third reading.

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

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

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

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

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

On page five, section two, line ninety-six, after the word "current" by inserting the word "unencumbered".

The bill (Eng. Com. Sub. for H. B. 2771), as amended, was then ordered to third reading.

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

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

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

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

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

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

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

On page seven, section one, by striking out paragraph (116);

On page twenty, section one, by striking out paragraph (466);

On page twenty-one, section one, by striking out paragraph (480);

And

By renumbering the remaining paragraphs.

The bill (Eng. Com. Sub. for H. B. 2805), as amended, was then ordered to third reading.

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

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

The following amendments to the bill, from the Committee on Education, were reported by the Clerk and considered simultaneously:

On page ten, section two, line one hundred nineteen, after the word "state;" by inserting the word "and";

On page ten, section two, line one hundred twenty-two, after the word "Administration" by changing the semicolon to a period and striking out the word "and";

On page twelve, section six, line thirty-eight by striking out the word "A" and inserting in lieu thereof the words "Except for the exempted schools, a";

On page thirteen, section one, line seven, by striking out the word "provide,";

On page sixteen, section two, line forty-one, by striking out the word "Any" and inserting in lieu thereof the words "An at-large";

On page seventeen, section four, line thirty-two, after the word "council" by striking out the comma;

On page eighteen, section four, line forty-five, by striking out the word "Review" and inserting in lieu thereof the words "Except the exempted schools, review";

On page eighteen, section four, line forty-six, after the word "compact" by striking out the comma and the words "except the exempted schools";

On page twenty-eight, section four, after line three hundred ten, by adding a new subsection, designated subsection (d), to read as follows:

(d) The Higher Education Policy Commission shall examine the question of general revenue appropriations to individual higher education institutions per student and per credit hour at all non-exempt higher education institutions, including four-year baccalaureate institutions and the community and technical colleges, and on or before the January 1, 2018, the commission shall deliver its report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability. This report shall include a recommendation to the Legislature on a formula for the allocation of general revenue to be appropriated to such institutions that provides for ratable funding across all non-exempt four year institutions and community and technical colleges on a ratable basis, by enrolled student or by credit hour. On such basis, the commission shall make a recommendation to the Legislature as to the amounts that each such institution should have appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal year 2018.;

On page twenty-nine, section six, line twelve, after the words "Shepherd University" by striking out the comma and inserting in lieu thereof the word "and";

On page twenty-nine, section six, line thirteen, by striking out the word "and";

On page thirty-six, section seven, line fifty-eight, by striking the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”;

On page thirty-six, section seven, line sixty, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”;

On page thirty-seven, section seven, line seventy-eight, by striking out the word “the”;

On page forty, section seven, line one hundred fifty, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”;

On page forty, section seven, lines one hundred fifty-four and one hundred fifty-five, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”;

On page forty, after line one hundred fifty-seven, by inserting the following:

ARTICLE 1F. MANAGEMENT AGREEMENTS FOR THE HIGHER EDUCATION POLICY COMMISSION.

§18B-1F-10. Research, development and technology parks; transfer of property; funding requirement; department of commerce to study and report relating to research and technology parks.

(a) Commencing with the effective date of this section, the Higher Education Policy Commission shall undertake all measures necessary to, and shall complete, transfer of ownership of the Technology Park and any funds dedicated to the Technology Park to the governing board of Marshall University by July 1, 2018.

(b) All powers, duties, rights, responsibilities, and authorities of the commission pursuant to the provisions of this article, as of the effective date of the transfer contemplated in subsection (a) of this section, are transferred to the governing board of Marshall University.

(c) The governing board of Marshall University shall thereafter manage development and participation in the Technology Park in a manner whereby fifty percent or more of the investment and funding for the operation, administration and additional development of the facility shall originate from private sources.

(d) The West Virginia Development Office shall research, investigate, and make recommendations relating to advancing research activities, economic development, and job creation relating to foundations and private entities, including the I-79 Technology Park, who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State of West Virginia. The Development Office shall submit a report of its investigation and findings to the Governor and the Legislature on or before December 31, 2017.;

On page forty-three, section four, line thirty-one, by striking out the word “is” and inserting in lieu thereof the word “are”;

On page forty-three, section four, line thirty-three, by striking out the word “its” and inserting in lieu thereof the words “their respective”;

On page forty-eight, section one, line seven, by striking out the word "Osteopathy" and inserting in lieu thereof the words "Osteopathic Medicine";

On page forty-nine, section seven, line three, after the word "of" by striking out the words "state colleges and universities in this state and" and inserting in lieu thereof the words "colleges in this state except";

On page fifty-five, section four, lines eighty-three and eighty-four, by striking out all of subsection (h);

And relettering the remaining subsections;

On page sixty-one, section six, line thirteen, by striking out the word "or" and inserting in lieu thereof the word "and";

On page seventy-six, section eight, line fifty-seven, by striking out the words "under the jurisdiction of the commission";

On page seventy-six, section eight, line sixty-six, by striking out the words "under the jurisdiction of the commission.";

On page ninety-seven, section thirteen, after line seven, by inserting a new subsection, designated subsection (b), to read as follows:

(b) Notwithstanding any provision of this code to the contrary, any acquisition, bequest, donation or construction of new buildings, office space or grounds exceeding \$1 million in appraised value or requiring \$1 million in repairs and renovation or lease payments over the lifetime of the lease, made or accepted by an institution's research corporation established by article twelve of this chapter or an affiliated foundation of an institution under the jurisdiction of the council, shall be approved by the council.;

And by relettering the remaining subsections;

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §18B-1-5a, 18B-1-8b, 18B-1-10 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1A-3 of said code be repealed; that §18B-1B-10 and §18B-1B-13 of said code be repealed; that §18B-2-5 and §18B-2-7 of said code be repealed; that §18B-5-2a of said code be repealed; that §18B-1-2 and §18B-1-6 of said code be amended and reenacted; that §18B-1B-1, §18B-1B-2, §18B-1B-4, and §18B-1B-6 of said code be amended and reenacted; that §18B-1D-2, §18B-1D-4, and §18B-1D-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1F-10; that §18B-2A-3 and §18B-2A-4 of said code be amended and reenacted; that §18B-3-1 of said code be amended and reenacted; that §18B-4-7 of said code be amended and reenacted; that §18B-5-4, §18B-5-6, §18B-5-7, and §18B-5-9 of said code be amended and reenacted; that §18B-10-1, §18B-10-1c, §18B-10-8, and §18B-10-16 of said code be amended and reenacted; that §18B-19-1, §18B-19-3, §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-9, §18B-19-10, §18B-19-11, §18B-19-

13, and §18B-19-14 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-19-19, all to read as follows:

On motion of Senator Trump, the following amendment to the Education committee amendments to the bill (Eng. Com. Sub. for H. B. 2815) was reported by the Clerk and adopted:

On pages one and two, lines one through ten, by striking out all of subsection (d) and inserting in lieu thereof a new subsection (d), to read as follows:

(d) The Higher Education Policy Commission shall examine the question of general revenue appropriations to individual higher education institutions per student, and per credit hour, and by other relevant measures at all higher education institutions, including four-year baccalaureate institutions and the community and technical colleges, and on or before January 1, 2018, the commission shall deliver its report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability. This report shall include a recommendation to the Legislature on a formula for the allocation of general revenue to be appropriated to such institutions that provides for ratable funding across all four-year institutions and community and technical colleges on a ratable basis, by enrolled student, by credit hour or by other relevant measures. On such basis, the commission shall make a recommendation to the Legislature as to the amounts that each such institution should have appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal year 2018.

On motions of Senators Gaunch and Takubo, the following amendments to the Education committee amendments to the bill (Eng. Com. Sub. for H. B. 2815) were next reported by the Clerk and considered simultaneously:

On page three, by striking out all of section ten, and inserting in lieu thereof a new section ten, to read as follows:

§18B-1F-10. Department of commerce to study and report relating to research and technology parks.

The West Virginia Development Office shall research, investigate and make recommendations relating to advancing research activities, economic development and job creation relating to foundations and private entities, including the I-79 Technology Park, who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State of West Virginia. The Development Office shall submit a report of its investigation and findings to the Governor and the Legislature on or before December 31, 2017.;

And,

On page five, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §18B-1-5a and §18B-1-10 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1A-3 of said code be repealed; that §18B-1B-10 and §18B-1B-13 of said code be repealed; that §18B-2-5 and §18B-2-7 of said code be repealed; that §18B-5-2a of said code be repealed; that §18B-1-2 and §18B-1-6 of said code be amended and reenacted; that §18B-1B-1, §18B-1B-2, §18B-1B-4, and §18B-1B-6 of said code be amended and reenacted; that §18B-1D-

2, §18B-1D-4, and §18B-1D-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1F-10; that §18B-2A-3 and §18B-2A-4 of said code be amended and reenacted; that §18B-3-1 of said code be amended and reenacted; that §18B-4-7 of said code be amended and reenacted; that §18B-5-4, §18B-5-6, §18B-5-7, and §18B-5-9 of said code be amended and reenacted; that §18B-10-1, §18B-10-1c, §18B-10-8, and §18B-10-16 of said code be amended and reenacted; that §18B-19-1, §18B-19-3, §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-9, §18B-19-10, §18B-19-11, §18B-19-13, and §18B-19-14 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-19-19, all to read as follows:.

Following discussion,

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

The question now being on the adoption of the Education committee amendments to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2815), as amended, was then ordered to third reading.

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

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

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

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

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

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

ARTICLE 10. PERFORMANCE REVIEW ACT.

§4-10-3. Definitions.

As used in this article, unless the context clearly indicates a different meaning:

(a) "Agency" or "state agency" means a state governmental entity, including any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity in the State of West Virginia.

(b) "Agency review" means a review performed on agencies of a department pursuant to the provisions of this article.

(c) "Committee" means the Joint Committee on Government Operations.

(d) "Compliance review" means a review for compliance with recommendations contained in a previous agency review or regulatory board review conducted pursuant to the provisions of this article and may include further inquiry of other issues as directed by the President, the Speaker, the Legislative Auditor, the committee or the joint standing committee.

(e) "Department" means the departments created within the executive branch, headed by a secretary appointed by the Governor, as authorized by the Code of West Virginia.

(f) "Department presentation" means a presentation by a department pursuant to the provisions of this article.

(g) "Division" means the Performance Evaluation and Research Division, the Post Audit Division, of the Legislative Auditor or any division of the Legislative Auditor's Office.

(h) "Joint standing committee" means the Joint Standing Committee on Government Organization.

(i) "Privatize" means a contract to procure the services of a private vendor to provide a service that is similar to, and/or in lieu of, a service provided by a state agency.

(j) "Regulatory Board" means a board that regulates professions and occupations, created under the provisions of chapter thirty of this code.

(k) "Regulatory Board Review" means a review performed on a regulatory board pursuant to the provisions of this article.

§4-10-6. Department presentation and schedule; timing and scope.

~~(a) During the 2007 legislative interim period, each department shall make a presentation pursuant to the provisions of this section to the joint standing committee and the committee.~~

~~(b) The department shall provide to the joint standing committee and the committee a written copy of the presentation.~~ (a) During the calendar year in which a department is scheduled for an agency review pursuant to section eight of this article, and upon notification from the joint standing committee or the division, the department shall prepare and present a department presentation to the joint standing committee and the committee. The purpose of the presentation is to inform the Legislature as to the programs, activities and financial situation of the department and to update and amend any information previously presented to the joint standing committee or committee pursuant to this section. The presentation shall include:

- (1) A departmental chart designating each agency under the purview of the department;
- (2) An analysis of the department's internal performance measures and self-assessment systems; and
- (3) For each agency under the purview of the department, the following:
 - (A) The mission, goals and functions of the agency;
 - (B) The statutory or other legal authority under which the agency operates;
 - (C) The number of employees of the agency for the immediate past ten years;

(D) The budget for the agency for the immediate past ten years;

(E) Any potential or actual loss of revenue due to operations, changes in law or any other reason;

(F) The extent to which the agency has operated in the public interest;

(G) The extent to which the agency has complied with state personnel practices, including affirmative action requirements;

(H) The extent to which the agency has encouraged public participation in the making of its rules and decisions and has encouraged interested persons to report to it on the impact of its rules and decisions on the effectiveness, economy and availability of services that it has provided;

(I) The efficiency with which public inquiries or complaints regarding the activities of the agency have been processed and resolved;

(J) The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency to better serve the interests of the public and to comply with the factors enumerated in this subsection; and

(K) A recommendation as to whether the agency should be continued, consolidated or terminated.

~~(c) The schedule for the presentations by the departments shall be as follows:~~

~~(1) May, 2007, Department of Administration;~~

~~(2) June, 2007, Department of Education and the Arts;~~

~~(3) July, 2007, Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) August, 2007, Department of Revenue;~~

~~(5) September, 2007, Department of Environmental Protection;~~

~~(6) October, 2007, Department of Health and Human Resources, including the Bureau of Senior Services;~~

~~(7) November, 2007, Department of Commerce;~~

~~(8) December, 2007, Department of Military Affairs and Public Safety; and~~

~~(9) January, 2008, Department of Transportation.~~

§4-10-7. Agency review.

(a) The committee and the Joint Standing Committee shall conduct agency reviews, or authorize the division to conduct agency reviews as one of its duties in addition to its other duties prescribed by law, in accordance with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office, on one or more of the

agencies under the purview of a department, during the year in which the department is scheduled for review under the provisions of this article.

(b) The agency review may include, but is not limited to:

(1) An identification and description of the agency under review;

(2) The number of employees of the agency for the immediate past ten years;

(3) The budget for the agency for the immediate past ten years;

(4) Whether the agency is effectively and efficiently carrying out its statutory duties or legal authority;

(5) Whether the activities of the agency duplicate or overlap with those of other agencies and, if so, how these activities could be consolidated;

(6) A cost-benefit analysis, as described in subsection (e) of this section, on state services that are privatized or contemplated to be privatized;

~~(7) An analysis of the extent to which agency websites are accurate, updated and user friendly;~~

~~(8)~~ (7) An assessment of the utilization of information technology systems within the agency, including interagency and intra-agency communications;

~~(9)~~ (8) An analysis of any issues raised by the presentation made by the department pursuant to the provisions of this article;

~~(10)~~ (9) An analysis of any other issues as the committee or the Joint Standing Committee may direct; and

~~(11)~~ (10) A recommendation as to whether the agency under review should be continued, consolidated or terminated.

(c) The committee or the Joint Standing Committee may vote on the recommendation as to whether the agency under review should be continued, consolidated or terminated. Recommendations of the committee or the Joint Standing Committee shall be given considerable weight in determining if an agency should be continued, consolidated or terminated.

(d) An agency may be subject to a compliance review pursuant to the provisions of this article.

(e) A cost-benefit analysis authorized by this section may include:

(1) The tangible benefits of privatizing the service;

(2) Any legal impediments that may limit or prevent privatization of the service;

(3) The availability of multiple qualified and competitive private vendors; and

(4) A cost comparison, including total fixed and variable, direct and indirect, costs of the current governmental operation and the private vendor contract.

§4-10-8. Schedule of departments for agency review.

(a) Each department shall make a presentation, pursuant to the provisions of this article, to the Joint Standing Committee and the committee during the first interim meeting after the regular session of the year in which the department is to be reviewed pursuant to the schedule set forth in subsection (b) of this section.

(b) An agency review shall be performed on one or more agencies under the purview of each department at least once every seven years, as follows:

~~(1) 2013, the Department of Transportation;~~

~~(2) 2014, the Department of Administration;~~

~~(3) 2015, the Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) 2016, the Department of Veterans' Assistance and the Department of Education and the Arts;~~

~~(5) 2017, the Department of Revenue and the Department of Commerce;~~

~~(6) 2018, the Department of Environmental Protection and the Department of Military Affairs and Public Safety;~~

~~(7) 2019, the Department of Health and Human Resources, including the Bureau of Senior Services; and~~

~~(8) 2020, the Department of Transportation.~~

(1) 2017: The Department of Revenue and the Department of Commerce;

(2) 2018: The Department of Environmental Protection and the Department of Military Affairs and Public Safety;

(3) 2019: The Department of Health and Human Resources, including the Bureau of Senior Services;

(4) 2020: The Department of Transportation;

(5) 2021: The Department of Administration;

(6) 2022: The Department of Education, the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; and

(7) 2023: The Department of Veterans' Assistance and the Department of Education and the Arts.

§4-10-10. Regulatory board review schedule.

(a) A regulatory board review is required for all regulatory boards.

(b) A regulatory board review shall be performed on each regulatory board at least once every twelve years, commencing as follows:

~~(1) Two thousand eight: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.~~

~~(2) Two thousand nine: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.~~

~~(3) Two thousand ten: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.~~

~~(4) Two thousand eleven: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.~~

~~(5) Two thousand twelve: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.~~

~~(6) Two thousand thirteen: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.~~

~~(7) Two thousand fourteen: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.~~

~~(8) Two thousand fifteen: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects.~~

~~(9) Two thousand sixteen: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.~~

~~(10) Two thousand seventeen: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.~~

~~(11) Two thousand eighteen: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.~~

(1) 2017: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.

(2) 2018: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.

(3) 2019: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.

(4) 2020: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.

(5) 2021: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.

(6) 2022: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.

(7) 2023: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.

(8) 2024: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.

(9) 2025: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.

(10) 2026: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects; and

(11) 2027: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.

§4-10-14. Nullifying agency and regulatory board termination under prior law. Provision for other reviews; consolidation, termination and reorganization of agencies or programs.

~~No agency or regulatory board terminates pursuant to references to this article.~~

(a) The specifications of schedules for, and the scope of, agency and regulatory board reviews in this article shall not preclude a legislative review or reevaluation of any agency or program at other times. The Joint Standing Committee may request a review of the performance, purpose, efficiency and effectiveness of any agency or program any time that circumstances may require, including, but not limited to, the following:

(1) Expressed or implied statutory expiration of an agency or program;

(2) Creation of new, or the amendment of existing, federal law affecting the agency or program;

(3) Redundant purposes or functions in more than one agency or program or within an agency;

(4) Completion or satisfaction of agency or program objectives;

(5) Persistent inefficiencies in the delivery of services or in the accomplishment, or lack thereof, of statutory objectives;

(6) Fiscal constraints requiring changes in staffing, resources or goals; and

(7) Changes in legislative policy or direction.

(b) Following the completion of a review by the division and the Joint Standing Committee, with responses and comment from the subject agency or regulatory board, the Joint Standing Committee may recommend or propose the consolidation, termination or reassignment of the agency, program or regulatory board reviewed.

(c) Nothing in this article shall be construed as limiting or interfering with the right of any member of the Legislature to introduce, or of the Legislature to enact, any bill that would terminate,

consolidate or reorganize one or more state agencies or programs without a review conducted under the terms of this article.

The bill (Eng. Com. Sub. for H. B. 2839), as amended, was then ordered to third reading.

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

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

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

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §15-5-15a of the Code of West Virginia, 1931, as amended, be repealed; and that that the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §15-5-15b, all to read as follows:

The bill (Eng. H. B. 2869), as amended, was then ordered to third reading.

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

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

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk, considered simultaneously, and adopted:

On page four, section one, after line seventy-one, by adding a new subsection, designated subsection (i), to read as follows:

(i) The contracting public entity shall not award a contract pursuant to this section to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees. Any governmental entity may submit to the Division of Purchasing information which identifies vendors that qualify as being in default on a monetary obligation to the entity. The contracting public entity shall take reasonable steps to verify whether the lowest qualified bidder is in default pursuant to this subsection prior to awarding a contract.;

And,

By relettering the remaining subsections.

The bill (Eng. Com. Sub. for H. B. 2897), as amended, was then ordered to third reading.

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

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

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

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

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

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

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

On page four, section one, line seventy-six, after the word "state" by striking out the word "of" and inserting in lieu thereof the word "or".

Following discussion,

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

The bill (Eng. H. B. 2962), as amended, was then ordered to third reading.

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

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

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

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

That §44-1-1, §44-1-6, §44-1-7, §44-1-8, §44-1-14a and §44-1-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §44-3A-3 of said code be amended and reenacted; and that §44-5-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. PERSONAL REPRESENTATIVES.

§44-1-1. Executor has no powers before qualifying.

A person appointed by a will executor thereof shall not have the powers of executor until he or she qualifies as such by taking an oath and giving bond, unless not required to post bond by section eight of this article, before the county ~~court~~ commission in which the will, or an authenticated copy thereof, is admitted to record, or before the clerk thereof in vacation, except that he or she may provide for the burial of the testator, pay reasonable funeral expenses and preserve the estate from waste.

§44-1-6. Bond and oath; termination of grant in certain cases.

At the time of the grant of administration upon the estate of any intestate, the person to whom it is granted shall, in the ~~court~~ county commission or before the clerk granting it, give bond, unless not required to post bond by section eight of this article, and take an oath that the deceased has left no will so far as he or she knows, and that he or she will faithfully perform the duties of ~~his~~ the office to the best of his or her judgment. If a will of the deceased be afterwards admitted to record, or if, after administration is granted to a creditor or other person than a distributee, any distributee who shall not have before refused shall apply for administration, there may be a grant of probate or administration, after reasonable notice to such creditor or other person theretofore appointed, in like manner as if the former grant had not been made, and such former grant shall thereupon cease.

§44-1-7. Penalty of bond.

(a) Every bond ~~of~~ required to be given by an executor or administrator shall be in a penalty equal, at the least, to the full value of the personal estate of the deceased to be administered; and where there is a will which authorizes the executor or administrator to sell real estate, or receive the rents and profits thereof, the bond shall be in a penalty equal, at the least, to the full value both of such personal estate and of such real estate, or of such personal estate and of such rents and profits, as the case may be.

(b) If on the filing of the ~~inventory~~ or appraisement of the estate it shall appear that the penalty of the bond does not comply as to amount with the foregoing requirements, the ~~court~~ county commission in which, or the clerk before whom, such bond was given, shall immediately notify such executor or administrator of such fact and require of him or her a new or additional bond, and the failure of such executor or administrator to give the same within a reasonable time shall be sufficient cause for his or her removal.

§44-1-8. When executor or administrator not to give bond; when surety not required.

(a) Subject to the provisions of section three, article five of this chapter governing the appointment of a nonresident of this state as an executor, where the will directs that an executor shall not give bond, it shall not be required of him or her, unless at the time the will is admitted to probate or at any time subsequently, on the application of any person interested, ~~or from the knowledge of the court and after a hearing, it is required by the county commission or clerk admitting the will to probate, it is deemed proper that bond ought to be given.~~

(b) No surety shall be required on the bond of the executor if he or she is also the sole beneficiary of the decedent, unless the will directs otherwise, and no surety shall be required on the bond of the administrator if he or she is the sole distributee of the decedent, unless at the time the will is admitted to probate or the administrator is appointed or at any time thereafter, on the application of any person interested, and after a hearing, it is required by the county commission that surety ought to be given.

(c) In all such cases where no surety is required of the executor or administrator, the executor or administrator shall nevertheless be liable upon his or her bond upon his or her own personal recognizance in the event of default, failure or misadministration by the executor or administrator.

§44-1-14a. Notice of administration of estate; time limits for filing of objections; liability of personal representative.

(a) Within thirty days of the filing of the appraisal of any estate or within one hundred twenty days of the date of qualification of the personal representative if an appraisal is not filed as required in section fourteen of this article, the clerk of the county commission shall publish, once a week for two successive weeks, in a newspaper of general circulation within the county of the administration of the estate, a notice, which is to include:

(1) The name of the decedent;

(2) The name and address of the county commission before whom the proceedings are pending;

(3) The name and address of the personal representative;

(4) The name and address of any attorney representing the personal representative;

(5) The name and address of the fiduciary commissioner, if any;

(6) The date of first publication;

(7) A statement that claims against the estate must be filed within sixty days of the date of first publication in accordance with article two or article three-a of this chapter;

(8) A statement that any person seeking to impeach or establish a will must make a complaint in accordance with section eleven, twelve or thirteen, article five, chapter forty-one of this code;

(9) A statement that an interested person objecting to the qualifications of the personal representative or the venue or jurisdiction of the court must be filed with the county commission within sixty days after the date of first publication or thirty days of service of the notice, whichever is later; and

(10) If the appraisal of the assets of the estate shows the value to be \$200,000 or less, exclusive of real estate specifically devised and nonprobate assets, or, if it appears to the clerk that there is only one beneficiary of the probate estate and that the beneficiary is competent at law, a statement substantially as follows: "Settlement of the estate of the following named decedents will proceed without reference to a fiduciary commissioner unless within sixty days from the first publication of this notice a reference is requested by a party in interest or an unpaid creditor files a claim and good cause is shown to support reference to a fiduciary commissioner". If a party in interest requests the fiduciary commissioner to conclude the administration of the estate or an unpaid creditor files a claim, no further notice to creditors shall be published in the newspaper, and the personal representative shall be required to pay no further fees, except to the fiduciary commissioner for conducting any hearings, or performing any other duty as a fiduciary commissioner. The time period for filing claims against the estate shall expire upon the time period set out in the notice to creditors published by the clerk of the county commission as required in this subsection (a). If an unpaid creditor files a claim, the fiduciary commissioner shall conduct a hearing on the claim filed by the creditor, otherwise, the fiduciary commissioner shall conclude the administration of the estate as requested by the interested party.

(11) This notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication of such notice shall be equivalent to personal service on creditors, distributees and legatees.

(b) If no appraisal is filed within the time period established pursuant to section fourteen of this article, the county clerk shall send a notice to the personal representative by first class mail, postage prepaid, indicating that the appraisal has not been filed.

(c) The personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable.

(d) The personal representative shall, within sixty days after the date of first publication, serve a copy of the notice, published pursuant to subsection (a) of this section, by first class mail, postage prepaid or by personal service on the following persons:

(1) If the personal representative is not the decedent's surviving spouse and not the sole beneficiary or sole heir, the decedent's surviving spouse, if any;

(2) If there is a will and the personal representative is not the sole beneficiary, any beneficiaries;

(3) If there is not a will and the personal representative is not the sole heir, any heirs;

(4) The trustee of any trust in which the decedent was a grantor, if any; and

(5) All creditors identified under subsection (c) of this section, other than a creditor who filed a claim as provided in article two of this chapter or a creditor whose claim has been paid in full.

(e) Any person interested in the estate who objects to the qualifications of the personal representative or the venue or jurisdiction of the court, shall file notice of an objection with the county commission within ~~ninety~~ sixty days after the date of the first publication as required in subsection (a) of this section or within thirty days after service of the notice as required by subsection (d) of this section, whichever is later. If an objection is not timely filed, the objection is forever barred.

(f) A personal representative acting in good faith is not personally liable for serving notice under this section, notwithstanding a determination that notice was not required by this section. A personal representative acting in good faith who fails to serve the notice required by this section is not personally liable. The service of the notice in accordance with this subsection may not be construed to admit the validity or enforceability of a claim.

(g) The clerk of the county commission shall collect a fee of \$20 for the publication of the notice required in this section.

(h) For purposes of this section, the term "beneficiary" means a person designated in a will to receive real or personal property.

§44-1-26. Action on bond of personal representative.

Where an execution on a judgment or decree against a personal representative is returned without being satisfied, there may be forthwith brought and prosecuted an action against the

~~obligors surety~~ in any bond given by such personal representative for the faithful discharge of his or her duties.

ARTICLE 3A. OPTIONAL PROCEDURE FOR PROOF OF CLAIM

§44-3A-3. Office of fiduciary supervisor created; general powers; qualifications; tests for qualification; training program; salary.

(a) There is hereby created within the county commission an office, designated the fiduciary supervisor, who shall be appointed by order of the commission and whose office, with the consent of the clerk of the county commission, shall be housed within the office of such clerk or shall be housed in such other office as the commission may designate. Such fiduciary supervisor shall at the local option of each such commission, be either a part-time or full-time employee as may be required by the county commission and shall receive such salary as may be fixed by order of the county commission.

(b) The fiduciary supervisor shall have general supervision of all fiduciary matters and of the fiduciaries or personal representatives thereof and of all fiduciary commissioners and of all matters referred to such commissioners and shall make all ex parte settlements of the accounts of such fiduciaries except as to those matters referred to fiduciary commissioners for settlement.

(c) The county commission shall determine that the person to be appointed as fiduciary supervisor is fully qualified by education or experience, or both, to perform the duties assigned to such office by this chapter or other provisions of this code. Such person shall have the requisite knowledge of the legal issues raised and problems presented by any of the proceedings had and documents filed pursuant to the chapter, the procedures required with respect thereto, the rights of all parties and interested persons with respect to such procedures and the duties to be performed in examining and approving the several and various papers and documents presented to the fiduciary supervisor. ~~The State Tax Commissioner~~ Auditor shall design and supervise a test to be given to all persons selected or appointed as fiduciary supervisor who are not licensed to practice law in this state, if any, which test shall include such matters as the Tax Commissioner deems appropriate to determine the proficiency, experience, knowledge and skill to perform all of the duties imposed upon or to be imposed upon fiduciary supervisors generally. Such test shall be administered under the authority of the ~~State Tax Commissioner~~ Auditor by such person or persons as he or she may designate either at the county wherein the fiduciary supervisor is to serve or at such other place as the ~~Tax Commissioner~~ State Auditor may designate. The results of the test given to any person or persons shall be kept confidential except as to those persons who have completed the same to the satisfaction of the ~~Tax Commissioner~~ State Auditor and except as to those persons who may desire their individual test results to be made public. ~~Each county commission shall be notified as to the names of those persons who have satisfactorily completed such test. The Tax Commissioner shall provide for the uniformity of the test to be given and for grading and evaluating the results thereof.~~

~~The Tax Commissioner~~ If the State Auditor has appointed a fiduciary supervisor who is not licensed to practice law in this state shall at least annually conduct a training program for fiduciary supervisors who are not licensed to practice law in this state. The training program shall be conducted at such times and places and consist of such subjects as the ~~Tax Commissioner~~ state Auditor may determine. All fiduciary supervisors who are not licensed to practice law shall be required to attend such training programs and those supervisors as are so licensed may attend.

(d) The fiduciary supervisor shall give bond with good security to be approved by the county commission in an amount equal to the amount posted by the clerk of the county commission in the county wherein such fiduciary supervisor is to serve.

(e) Neither the fiduciary supervisor nor any person to whom the duties of fiduciary supervisor have been delegated, in whole or in part (excluding fiduciary commissioners) shall engage in the practice of law, for compensation or otherwise, with respect to the administration of any estate or trust wherein the fiduciary thereof has qualified in his or her county or with respect to any proceedings before him or her or which are or may be referred to a fiduciary commissioner in his or her county. Nor shall a fiduciary commissioner or special fiduciary commissioner engage in the practice of law with respect to matters referred to him or her as such commissioner. Any fiduciary supervisor or person to whom any of the functions or duties of the fiduciary supervisor have been delegated or fiduciary commissioner or special fiduciary commissioner who so engages in the practice of law contrary to the limited prohibitions of this section, shall be removed from his or her office or employment and, in addition thereto, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined \$1,000.

ARTICLE 5. GENERAL PROVISIONS AS TO FIDUCIARIES.

§44-5-3. Appointment of nonresident; bond; service of notice and process; fees; penalty.

(a) Notwithstanding any other provision of law, no individual who is a nonresident of this state, nor any banking institution which does not maintain a main office or branch office within this state nor any corporation having its principal office or place of business outside this state, may be appointed or act as executor, administrator, curator, testamentary guardian, guardian or conservator in this state, except that:

(1) An individual who is a nonresident of this state may be appointed ancillary administrator of a nonresident decedent's assets situate in this state if such nonresident individual is lawfully acting as executor in said decedent's state of domicile and submits letters of probate authenticated by the probate authorities of the decedent's state of domicile to the clerk of the county commission of any county of this state wherein ancillary administration is sought;

(2) An individual who is a nonresident of this state may be appointed ancillary administrator of a nonresident decedent's assets situate in this state if such nonresident individual is acting as administrator in said decedent's state of domicile and submits letters of administration authenticated by the probate authorities of the decedent's state of domicile to the clerk of the county commission of any county of this state wherein ancillary administration is sought;

(3) An individual who is a nonresident of this state may be appointed and act as testamentary guardian of a nonresident infant and thereby exercise dominion and control over such nonresident infant's assets situate in this state upon submission of authenticated documentation that such nonresident testamentary guardian was so appointed at the place of domicile of the nonresident infant. Such authenticated documentation shall be submitted to the clerk of the county commission of any county of this state wherein assets belonging to such nonresident infant are situate;

(4) An individual who is a nonresident of this state and who is named executor by a resident decedent may qualify and act as executor in this state;

(5) An individual who is a nonresident of this state may be appointed and act as administrator of a resident decedent's assets in this state if appointed in accordance with the provisions of section four, article one of this chapter;

(6) An individual who is a nonresident of this state may be appointed as the testamentary guardian of a resident infant if appointed in accordance with the provisions of section one, article ten of this chapter; and

(7) An individual who is a nonresident of this state may be appointed as guardian or conservator of a resident incompetent: *Provided*, That such appointment is made in accordance with the provisions of article two, chapter forty-four-a of this code and if such nonresident individual may otherwise qualify as guardian or conservator.

(b) Nonresident individuals enumerated in subsection (a) of this section shall give bond with corporate surety thereon, qualified to do business in this state, and the amount of such bond shall not be less than double the value of the personal assets and double the value of any real property authorized to be sold or double the value of any rents and profits from any real property which the nonresident individual is authorized to receive, except that:

(1) Any nonresident individual enumerated in subsection (a) of this section who is the spouse, parent, sibling, lineal descendent or sole beneficiary of a resident or nonresident decedent shall give bond with corporate surety thereon qualified to do business in this state, with such penalty as may be fixed pursuant to the provisions of ~~section~~ sections seven or eight, article one of this chapter, as approved by the clerk of the county commission;

(2) Where the terms of a decedent's will directs that a nonresident individual enumerated in subdivisions (1), (3), (4) and (6), subsection (a) of this section named in a decedent's will shall not give bond or give bond at a specified amount, it shall not be required or shall be required only to the extent required under the terms of the will, unless at the time the will is admitted to record or at any time subsequently, on the application of any person interested, or from the knowledge of the commission or clerk admitting the will to record, it is deemed proper that greater bond be given.

(c) When a nonresident individual is appointed as executor, administrator, testamentary guardian, guardian or conservator pursuant to the provisions of subsection (a) of this section, said individual thereby constitutes the clerk of the county commission wherein such appointment was made as his or her true and lawful attorney-in-fact upon whom may be served all notices and process in any action or proceeding against him or her as executor, administrator, testamentary guardian, guardian or conservator or with respect to such estate, and such qualification shall be a manifestation of said nonresident individual's agreement that any notice or process, which is served in the manner hereinafter provided in this subsection, shall be of the same legal force and validity as though such nonresident was personally served with notice and process within this state. Service shall be made by leaving the original and two copies of any notice or process together with a fee of \$5 with the clerk of such county commission. The fee of \$5 shall be deposited with the county treasurer. Such clerk shall thereupon endorse upon one copy thereof the day and hour of service and shall file such copy in his or her office and such service shall constitute personal service upon such nonresident: *Provided*, That the other copy of such notice or process shall be forthwith sent by registered or certified mail, return receipt requested, deliver to addressee only, by said clerk or to such nonresident at the address last furnished by him or her to said clerk and either: (1) Such nonresident's return receipt signed by him or her; or (2) the registered or certified mail bearing thereon the stamp of the post office department showing that

delivery therefore was refused by such nonresident is appended to the original notice or process filed therewith in the office of the clerk of the county commission from which such notice or process was issued. No notice or process may be served on such clerk of the county commission or accepted by him or her less than thirty days before the return date thereof. The clerk of such county commission shall keep a record in his or her office of all such notices and processes and the day and hour of service thereof. The provision for service of notice or process herein provided is cumulative and nothing herein contained shall be construed as bar to service by publication where proper or the service of notice or process in any other lawful mode or manner.

(d) The personal estate of a resident decedent, infant or incompetent may not be removed from this state until the inventory or appraisal of that resident decedent's, infant's or incompetent's assets have been filed and any new or additional bond required to satisfy the penalty specified in subsection (b) of this section has been furnished. The liability of a nonresident executor, administrator, testamentary guardian, guardian or conservator and of any such surety shall be joint and several and a civil action on any such bond may be instituted and maintained against the surety, notwithstanding any other provision of this code to the contrary, even though no civil action has been instituted against such nonresident.

(e) Any such nonresident who removes from this state assets administered in and situate in this state without complying with the provisions of this section, the provisions of article eleven of this chapter or any other requirement pertaining to fiduciaries generally, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in the county jail for not more than one year, or, in the discretion of the court, by both such fine and confinement.

(f) If a nonresident appointed pursuant to subsection (a) of this section fails or refuses to file an accounting required by this chapter, and the failure continues for two months after the due date, he or she may, upon notice and hearing, be removed or subjected to any other appropriate order by the county commission, and if his or her failure or refusal to account continues for six months, he or she shall be removed by the county commission.

The bill (Eng. H. B. 2967), as amended, was then ordered to third reading.

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

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-16, that said code be amended by adding thereto a new section, designated §8-9-4, and that said code be amended by adding thereto a new section, designated 30-1-5a, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-16. Reporting of fraud and misappropriation of funds.

(a) Whenever a county commission, or any of a county's boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of the county commission, or any of a county's boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the county commission, or the county's board, committee, or other entity authorized in this chapter shall timely report such information or allegation in writing to the County Prosecutor's office.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

CHAPTER 8. MUNICIPAL CORPORATIONS.**ARTICLE 9. PROCEEDINGS OF GOVERNING BODIES.****§8-9-4. Reporting of fraud and misappropriation of funds.**

(a) Whenever a governing body of a municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, municipality, or any of a municipality's board, committee, or any other entity authorized in this chapter shall timely report such information or allegation in writing to the County Prosecutor's office.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.****§30-1-5a. Reporting of fraud and misappropriation of funds.**

(a) Whenever a board referred to in this chapter obtains information that an employee, officer or member of the board may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the board shall timely report such information or allegation in writing to the Commission on Special Investigations, established in article five, chapter four of this code.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

Following discussion,

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

The bill (Eng. H. B. 3022), as amended, was then ordered to third reading.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Trump regarding the adoption of Senator Romano's amendment to Engrossed House Bill 3022 were ordered printed in the Appendix to the Journal.

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

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

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

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

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2F. DIVISION OFFICE OF ENERGY.

§5B-2F-2. Purpose; ~~office of Director for Energy Development; director to be member of Public Energy Authority; division Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and division office to promote energy initiatives.~~

(a) Effective July 1, 2007 ~~2017~~, the Division of Energy is ~~created as a state agency under the Department of Commerce. hereby continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce.~~ All references throughout this code to the Division of Energy shall be construed to refer to the Office of Energy. The ~~division office~~ may receive federal funds. ~~The division shall be administered by a director, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue to serve until his or her successor is appointed and qualified as provided. The director shall be selected with special preference and consideration given to his or her training, experience, capacity and interest in energy policy and development activities.~~

(b) ~~Creation of the division~~ The office is intended to provide leadership for developing energy policies emphasizing the increased efficiency of energy use, the increased development and production of new and existing domestic energy sources, the increased awareness of energy use on the environment and the economy, dependable, efficient and economical statewide energy systems capable of supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased, reduce the ratio energy consumption to economic activity and maintain low-cost energy. The energy policies and development plans shall also provide direction for the private sector.

(c) ~~The director shall administer the daily operations of the Public Energy Authority provided under the provisions of chapter five-d of this code. The director shall also have authority over the Office of Coalfield Community Development, created by the provisions of article two-a of this chapter, and~~ The office shall have authority over the energy efficiency program existing under the West Virginia Development Office, ~~which are hereby transferred to the division. The director shall effectuate coordination of these entities relative to the purposes provided in this article.~~

(d) The ~~division office~~ shall develop an energy policy and shall report the same back to the Governor and the Joint Committee on Government and Finance before December 1, 2007. The energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a direction for the private sector. Prior to the expiration of the energy policy, the ~~division office~~ shall begin review of the policy and submit a revised energy policy to the Governor and the Joint Committee on Government and Finance six months before the expiration of the policy.

~~(e) The director shall be a member of the Public Energy Authority and as such shall attend and participate in all official meetings and public hearings conducted under the auspices of the authority.~~

(~~f~~) (~~e~~) The ~~division office~~ shall prepare and submit an annual energy development plan to the Governor and the Joint Committee on Government and Finance on or before December 1 of each year. The development plan shall relate to the ~~division's office's~~ implementation of the energy policy and the activities of the ~~division office~~ during the previous year. The development plan shall include any recommended legislation. The Public Energy Authority, the Office of Coalfield Community Development, the energy efficiency program, the Department of Environmental Protection and the Public Service Commission, in addition to their other duties prescribed by this code, shall assist the ~~division and the director office~~ in the development of an energy policy and related development plans. The energy development plan shall set forth the plans for implementing the state's energy policy and shall provide a direction for the private sector. The energy development plan shall recognize the powers of the Public Energy Authority as to development and financing of projects under its jurisdiction and shall make such recommendations as are reasonable and practicable for the exercise of such powers.

~~(g)~~ (~~f~~) The ~~division office~~ shall hold public hearings and meetings with notice to receive public input regarding proposed energy policies and development plans. The energy policy and development plans required by subsections (d) and (~~f~~) (~~e~~) of this section shall address increased efficiency of energy use, traditional and alternative energy, water as a resource and a component of energy production, energy distribution systems, the siting of energy facilities, the increased development and production of new and existing domestic energy sources, increased awareness of energy use on the environment and the economy, energy infrastructure, the development and implementation of renewable, clean, technically innovative and advanced energy projects in this state. Projects may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal liquefaction technologies.

~~(h)~~ (~~g~~) The ~~division office~~ may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code designed to implement an energy policy and development plan in accordance with the provisions of this chapter.

(~~h~~) (~~h~~) The energy policy and development plans required by subsections (d) and (~~f~~) (~~e~~) of this section shall identify and report on the energy infrastructure in this state and include without limitation energy infrastructure related to protecting the state's essential data, information systems and critical government services in times of emergency, inoperativeness or disaster. In consultation with the Director of the Division of Homeland Security and Emergency Management, the ~~director of the division office~~ shall encourage the development of energy infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster.

~~(j)~~ (i) In preparing or revising the energy policy and development plan, the ~~division~~ office may rely upon internal staff reports or the advice of outside advisors or consultants and may procure such services with the consent of the Secretary of Commerce. The ~~division~~ office may also involve national, state and local government leadership and energy experts.

~~(k)~~ (j) The ~~division~~ office shall prepare an energy use database, including without limitation, end-use applications and infrastructure needs for different classes of energy users including residential, commercial and industrial users, data regarding the interdependencies and sources of electricity, oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned facilities and collect data on the impact of the energy policy and development plan on the decisions and strategies of energy users of the state.

~~(l)~~ (k) The ~~division~~ office shall promote collaboration between the state's universities and colleges, private industry and nonprofit organizations to encourage energy research and leverage available federal energy research and development resources.

~~(m)~~ (l) The ~~division~~ office shall promote initiatives to enhance the nation's energy security through research and development directed at transforming the state's energy resources into the resources that fuel the nation.

~~(n)~~ The Performance Evaluation and Research Division of the Legislative Auditor's office shall perform an agency review of the Division of Energy in 2010 as part of its review of the Department of Commerce as set forth in article four, chapter ten of this code.

~~(o)~~ (m) The ~~division~~ office shall work with the President of the United States and his or her administration to develop a plan that would allow West Virginia to become the leader in transitioning the United States to a new energy future.

~~(p)~~ (n) The ~~division~~ office is to determine the best way for West Virginia to utilize its resources and any federal funding to develop the technologies that are necessary for such a transition.

~~(q)~~ (o) The ~~division~~ office is to clearly articulate West Virginia's position on an energy solution for the United States that encompasses clean coal, natural gas, transtech energy technologies and renewable energy technologies.

~~(r)~~ (p) The ~~division~~ office shall develop and distribute an informational program and policies that emphasize the importance of West Virginia energy resources and their positive impact on the eastern seaboard and the nation.

~~(s)~~ (q) The ~~division~~ office shall monitor legal challenges to the energy industries in the state and submit a report quarterly to the Joint Committee on Government and Finance. The report shall contain information relating to any litigation that challenges any statute that could affect the production, distribution and utilization of natural resources of the state.

CHAPTER 5D. PUBLIC ENERGY AUTHORITY ACT.

ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF WEST VIRGINIA.

§5D-1-4. West Virginia Public Energy Authority continued; West Virginia Public Energy Board continued; organization of authority and board; appointment of board members; term, compensation and expenses; director of authority; appointment.

(a) The West Virginia Public Energy Authority is continued. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

(b) The authority shall be controlled, managed and operated by a seven-member board known as the West Virginia Public Energy Authority Board, which is continued. The seven members include the ~~Director of the Division of Energy~~ Secretary of the Department of Commerce or designee; the Secretary of the Department of Environmental Protection or designee; the Director of the Economic Development Authority or designee; and four members representing the general public. The public members are appointed by the Governor, by and with the advice and consent of the Senate, for terms of one, two, three and four years, respectively.

(c) On June 30, 2007, the terms of all appointed members shall expire. Not later than July 1, 2007, the Governor shall appoint the public members required in subsection (b) of this section to assume the duties of the office immediately, pending the advice and consent of the Senate.

(d) The successor of each appointed member is appointed for a four-year term. A vacancy is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the unexpired term. Each board member serves until a successor is appointed.

(e) No more than three of the public members may at any one time belong to the same political party. No more than two public members may be employed by or associated with any industry the authority is empowered to affect. One member shall be a person with significant experience in the advocacy of environmental protection. Board members may be reappointed to serve additional terms.

(f) All members of the board shall be citizens of the state. Before engaging in their duties, each member of the board shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$25,000 in the manner provided in article two of said chapter. The Governor may remove any board member as provided in section four, article six of said chapter.

(g) The ~~Director of the Division of Energy shall serve~~ Secretary of the Department of Commerce or his or her designee shall serve as chair. The board annually elects one of its members as vice chair and appoints a secretary-treasurer who need not be a member of the board.

(h) Four members of the board constitute a quorum and the affirmative vote of the majority of members present at any meeting is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

(i) The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter six of this code.

(j) Each public member shall be reimbursed for reasonable expenses incurred in the discharge of official duties. All expenses incurred by the board shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable

solely from funds of the authority or from funds appropriated for such purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(k) In addition to such other duties and responsibilities as may be prescribed in this code, the ~~Director of the Division~~ Office of Energy is responsible for managing and administering the daily functions of the authority and for performing all other functions necessary to the effective operation of the authority.

The bill (Eng. H. B. 3037), as amended, was then ordered to third reading.

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

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

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

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

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

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

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

On page three, section nine, line fifty-nine, by striking out the words "at least three hours of".

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 3080), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

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

Eng. Com. Sub. for House Bill 2601, Relating to municipal policemen's or municipal firemen's pension and relief funds.

Eng. Com. Sub. for House Bill 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund.

Eng. Com. Sub. for House Bill 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs.

Eng. Com. Sub. for House Bill 2759, Creating Statewide Interoperable Radio Network.

Eng. Com. Sub. for House Bill 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund.

Eng. Com. Sub. for House Bill 2850, Relating to product liability actions.

Eng. Com. Sub. for House Bill 2857, West Virginia Safer Workplaces Act.

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

Eng. House Bill 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony.

Eng. Com. Sub. for House Bill 3030, Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals.

And,

Eng. Com. Sub. for House Bill 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the sixth order of business, which agenda includes the making of main motions.

Senator Ferns moved that the Senate reconsider the vote by which in earlier proceedings today it passed

Eng. Com. Sub. for House Bill 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Ferns, the Senate reconsidered its vote by which on yesterday, Tuesday, April 4, 2017, it adopted the Judiciary committee amendment to the bill (*shown in the Senate Journal of that day, pages 45 and 46*).

The vote thereon having been reconsidered,

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

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

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

ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

§60A-10-12. Exposure of children to methamphetamine manufacturing; penalties.

(a) Any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured is guilty of a felony and, upon conviction thereof, shall be ~~confined~~ imprisoned in a state correctional facility for not less than ~~one~~ two nor more than ~~five~~ ten years, fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, ~~the penalty for a violation of said subsection when the child suffers serious bodily injury as such is defined in the provisions of section one, chapter eight-b of this code shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than twenty five thousand dollars, or both~~ any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured and the child thereby suffers serious bodily injury is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$25,000, or both imprisoned and fined.

(c) As used in subsection (b) of this section, "serious bodily injury" shall have the same meaning as this term is defined in section one, article eight-b, chapter sixty-one of this code.

Engrossed Committee Substitute for House Bill 2083, as amended, was then put upon its passage.

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

The nays were: None.

Absent: Mullins, Ojeda, Stollings and Woelfel—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2083) passed.

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

Eng. Com. Sub. for House Bill 2083—A Bill to amend and reenact §60A-10-12 of the Code of West Virginia, 1931, as amended, relating to the Methamphetamine Laboratory Eradication Act; increasing the felony criminal penalty for knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured; clarifying that knowingly causing or permitting a minor to be present in a location where

methamphetamine is manufactured and thereby causing the minor serious bodily injury is a separate, distinct offense; and clarifying the definition of serious bodily injury.

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

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the fourth order of business.

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

Your Committee on Health and Human Resources has had under consideration

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

And has amended same.

And,

Eng. Com. Sub. for House Bill 3102, Relating to selling Hopemont Hospital.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee references of the bills contained in the foregoing report from the Committee on Health and Human Resources.

At the request of Senator Ferns, and by unanimous consent, the bills (Eng. Com. Sub. for H. B. 2366 and 3102) were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

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

And has amended same.

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

Respectfully submitted,

Tom Takubo,
Chair.

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

At the request of Senator Ferns, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2428) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

At the request of Senator Ferns, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2708) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

At the request of Senator Ferns, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 3020) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3093, Establishing Broadband Enhancement and Expansion Policies.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3093) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Natural Resources has had under consideration

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

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following proclamation from His Excellency, the Governor, extending this current legislative session until and including the ninth day of April, two thousand seventeen, which was received and read by the Clerk:

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

Charleston

A P R O C L A M A T I O N

By the Governor

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of February, two thousand seventeen; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand seventeen regular session of the Legislature is scheduled to conclude on the eighth day of April, two thousand seventeen; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this fifth day of April, two thousand seventeen.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand seventeen regular session of the Legislature for an additional period not to exceed one day, through and including the ninth day of April, two thousand seventeen; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the fifth day of April, in the year of our Lord, Two Thousand Seventeen, and in the One Hundred Fifty-Fourth year of the State.

**JIM JUSTICE
GOVERNOR**

By the Governor

**MAC WARNER
SECRETARY OF STATE**

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Thursday, April 6, 2017, at 11 a.m.

SENATE CALENDAR

**Thursday, April 06, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Saturday, April 08, 2017 – 11:00 AM

Consideration of executive nominations

UNFINISHED BUSINESS

- S. C. R. 61 - Requesting study of economic, health and tourism impacts of biking, hiking and other forms of activity
- H. C. R. 15 - Requesting Congress to fully support the National Park Service's recommendations to extend the Lewis and Clark National Historic Trail to include additional sites along the Expedition's Eastern Legacy

THIRD READING

- Eng. Com. Sub. for S. B. 476 - Expiring funds from Revenue Shortfall Reserve Fund to General Revenue (original similar to HB2801)
- Eng. Com. Sub. for H. B. 2129 - Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2195 - Relating to requiring comprehensive drug awareness and prevention program in all public schools
- Eng. H. B. 2348 - Eliminating any requirement that class hours of students be consecutive
- Eng. Com. Sub. for H. B. 2402 - Relating to abandoned antique vehicles (original similar to HB2445, SB382)
- Eng. Com. Sub. for H. B. 2494 - Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2503 - Relating to the rulemaking authority for Board of Osteopathic Medicine
- Eng. Com. Sub. for H. B. 2555 - Relating to tax credits for apprenticeship training in construction trades - (Com. title amend. pending) (original similar to SB191)
- Eng. Com. Sub. for H. B. 2579 - Increasing the penalties for transporting controlled substances - (Com. title amend. pending) (original similar to HB2448, HB2602)
- Eng. Com. Sub. for H. B. 2585 - Creating felony crime of conducting financial transactions involving proceeds of criminal activity - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2589 - Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2603 - Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more

Eng. H. B. 2628 - Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine - (Com. title amend. pending) (original similar to HB2423, HB2630)

Eng. Com. Sub. for H. B. 2631 - Relating to time standards for disposition of complaint proceedings

Eng. Com. Sub. for H. B. 2646 - Terminating the Women's Commission and discontinue its functions - (Com. title amend. pending)

Eng. H. B. 2691 - Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber

Eng. Com. Sub. for H. B. 2702 - Relating to excused absences for personal illness from school - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2709 - Authorizing the City of South Charleston to levy a special district excise tax (original similar to SB565)

Eng. Com. Sub. for H. B. 2771 - Relating to temporary teaching certificates for Armed Forces spouses

Eng. Com. Sub. for H. B. 2792 - Requiring the Library Commission to survey the libraries of the state

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

Eng. Com. Sub. for H. B. 2805 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state

Eng. Com. Sub. for H. B. 2815 - Relating to higher education governance - (Com. title amend. pending)

Eng. H. B. 2833 - Specifying the contents and categories of information for inclusion in annual reports

Eng. Com. Sub. for H. B. 2839 - Updating the procedures for legislative review of departments and licensing boards

Eng. H. B. 2869 - Providing for paid leave for certain state officers and employees during a declared state of emergency - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2897 - Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions

Eng. Com. Sub. for H. B. 2941 - Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services

- Eng. Com. Sub. for H. B. 2961 - Relating generally to charitable bingo games and charitable raffles - (Com. title amend. pending) (original similar to SB625)
- Eng. H. B. 2962 - Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors (original similar to SB598)
- Eng. H. B. 2967 - Relating generally to administration of estates and trusts
- Eng. Com. Sub. for H. B. 2980 - Relating to civil lawsuit filing fees for multiple defendant civil action - (Com. title amend. pending)
- Eng. H. B. 3022 - Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations
- Eng. H. B. 3037 - Removing the Division of Energy as an independent agency - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 3048 - Relating to collection of Tier II fees for chemical inventories - (Com. title amend. pending) (original similar to SB629)
- Eng. H. B. 3053 - Relating to motor vehicle lighting
- Eng. Com. Sub. for H. B. 3080 - Requiring instruction in the Declaration of Independence and the United States Constitution

SECOND READING

- Eng. Com. Sub. for H. B. 2366 - Relating to selling Jackie Withrow Hospital - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2428 - Establishing additional substance abuse treatment facilities - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2552 - Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund - (Com. amends. pending)
- Eng. Com. Sub. for H. B. 2561 - Relating to public school support
- Eng. Com. Sub. for H. B. 2601 - Relating to municipal policemen's or municipal firemen's pension and relief funds - (Com. amend. and title amend. pending) (original similar to SB393)
- Eng. Com. Sub. for H. B. 2708 - Relating to a lawful method for a developmentally disabled person to purchase a base hunting license - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2720 - Allowing the School Building Authority to transfer funds allocated into the School Construction Fund - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2724 - Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs

- Eng. Com. Sub. for H. B. 2759 - Creating Statewide Interoperable Radio Network - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2801 - Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund
- Eng. Com. Sub. for H. B. 2804 - Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members - (Com. amends. pending)
- Eng. Com. Sub. for H. B. 2850 - Relating to product liability actions
- Eng. Com. Sub. for H. B. 2857 - West Virginia Safer Workplaces Act
- Eng. Com. Sub. for H. B. 2916 - Authorizing certain first responders to carry firearms - (Com. amend. and title amend. pending)
- Eng. H. B. 3018 - Adding definition of correctional employee to the list of persons against whom an assault is a felony - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3020 - Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3030 - Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3064 - Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes
- Eng. Com. Sub. for H. B. 3093 - Establishing Broadband Enhancement and Expansion Policies - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 3102 - Relating to selling Hopemont Hospital - (Com. amend. and title amend. pending)

FIRST READING

- Eng. Com. Sub. for H. B. 2520 - Prohibiting the use of a tanning device by a person under the age of eighteen (original similar to SB672)
- Eng. Com. Sub. for H. B. 2637 - Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2651 - Relating generally to standardized testing requirements for nonpublic schools
- Eng. H. B. 2745 - Adding the examination of Advanced Care Technician
- Eng. Com. Sub. for H. B. 2799 - Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit
- Eng. Com. Sub. for H. B. 2846 - Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee

Eng. Com. Sub. for H. B. 3061 - Encouraging mastery-based education through the Innovation In Schools program

Eng. Com. Sub. for H. B. 3095 - Allowing retired teachers to be employed by a higher education institution

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Thursday, April 6, 2017

8 a.m.	Education	(Room 451M)
8 a.m.	Government Organization	(Room 208W)
9:30 a.m.	Finance	(Room 451M)
9:30 a.m.	Judiciary	(Room 208W)
Upon First Recess	Transportation & Infrastructure	(Senate Chamber)