

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
SIXTIETH DAY

Charleston, West Virginia, Saturday, March 9, 2019

The Senate met at 10:51 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Gregory L. Boso, a senator from the eleventh district.

Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia, then proceeded in the singing of "I Called on the Lord and Got an Answer" and "There's A Blessing in This House".

On motion of Senator Takubo, the special order of business set for this position on the calendar (*consideration of executive nominations*) was postponed and made a special order of business at 3 p.m. today.

Pending the reading of the Journal of Friday, March 8, 2019,

At the request of Senator Ihlenfeld, 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.

At the request of Senator Sypolt, unanimous consent being granted, Senator Sypolt addressed the Senate regarding resolutions urging Congress to provide exceptions to weight limits on interstates that were introduced in the Senate but not acted upon by the House of Delegates.

At the request of Senator Baldwin, and by unanimous consent, the Senate stood in observance of a moment of silence recognizing the Honorable Jesse O. Guills, former senator from the tenth district who is hospitalized in critical condition, and Adam DeBoard, a miner who was killed in a Greenbrier County mining accident on Thursday, March 7, 2019.

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Children's Health Insurance Program (§5-16B-3)

Development Office (Governor's Guaranteed Work Force Program (§5B-2D-6)

Development Office (Tax Increment Financing) (§7-11B-15)

Environmental Protection, Department of (Special Reclamation Fund Advisory Council) (§22-1-17)

Ethics Commission (Advisory Opinions and Exemptions) (§6B-2-3)

Health and Human Resources, Department of (Driving Under the Influence Safety and Treatment Program) (§17C-5A-3a)

Medicine, Board of (§30-1-12)

Motor Vehicles, Division of (Motor Vehicle Alcohol Test and Lock Program)

Motor Vehicles, Division of (Motorcycle Safety and Awareness Program Board) (§17B-1D-8)

The Senate 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 352, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

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

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

On page eight, section fourteen, after subdivision (l), by inserting a new subdivision, designated subdivision (m), to read as follows:

(m) Notwithstanding any other provision of this code to the contrary, any records obtained in response to solicitations for bids from the division shall not be subject to disclosure pursuant to §29B-1-1 et seq. of this code, until and unless the time frame for submission of bids has closed: *Provided*, That once bids close, the records may be exempt from disclosure pursuant to §29B-1-4 of this code. Any record relating to any solicitation for, or purchase of, any item related to the safe and secure running of any facility under the jurisdiction of the Commissioner of the Division is not subject to disclosure pursuant to §29B-1-1 et seq. of this code.

On motion of Senator Boso, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 352) was reported by the Clerk and adopted:

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

Eng. Com. Sub. for Senate Bill 352—A Bill to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15A-3-14a, all relating to the Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities; clarifying notice requirements; allowing the division to require surety; expanding acceptable forms of surety; allowing the division to utilize best value procurement; providing exception; establishing procedure for best value procurement; allowing for direct award procurement; establishing procedure for direct award procurement; allowing the division to run criminal background checks, financial background checks, licensing background checks, and credit checks to determine eligibility for award of contract; enumerating grounds upon which division shall disqualify vendors from being awarded a contract or having contract renewed; limiting disclosure under Freedom of Information Act of records obtained in response to solicitations for bids and records relating to solicitations for, or purchases of, items related to safe and secure running of any facility under jurisdiction of commissioner of division; creating special revenue fund; and providing for methods of disposition of surplus property owned by the division.

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

Engrossed Committee Substitute for Senate Bill 352, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 352) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 352) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended 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 40, Establishing Military Service Members Court program.

On motion of Senator Takubo, 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:

ARTICLE 16. THE MILITARY SERVICE MEMBERS COURT ACT.

§62-16-1. Short title.

This may be cited as the Military Service Members Court Act.

§62-16-2. Legislative findings.

The Legislature recognizes that while most veterans are strengthened by their military service, the combat experiences of many veterans have unfortunately left a growing number of veterans who suffer from issues such as Post Traumatic Stress Disorder and traumatic brain injury. A growing body of research shows that one in five veterans will have symptoms of a mental illness, mental health disorder or cognitive impairment. One in six veterans who served in either Operation Enduring Freedom or Operation Iraqi Freedom suffer from substance abuse and related issues. As a result, many veterans have found themselves in the criminal court system charged with crimes which may be directly attributable to these service-related issues.

The Legislature further recognizes that a Military Service Members Court is necessary to link veterans with the programs, benefits, and services that are necessary to help them overcome these issues and provide them with rehabilitation services instead of incarceration.

Given the context of veteran life, especially given their past training and experiences in the Armed Forces, it is reasonably anticipated and likely that military service members would respond favorably to a structured environment. The Military Service Members Court is a professional, structured and monitored program which mandates and provides participant accountability and responsibility, including mandatory court appearances, treatment and counseling sessions, as well as frequent and random testing for drug and alcohol use. However, the Legislature also finds that some may still struggle. Those are the veterans who need the structure and support of a Military Service Members Court program such the most. Without the structure of a Military Service Members Court program mentally ill and challenged veterans may well reoffend, remain in the criminal court system and suffer under the emotional, physical and mental yoke of substance abuse.

The Legislature creates the Military Service Members Court to ensure that these veterans in need are able meet their obligations to themselves, their family, their loved ones, the court, and their community.

§62-16-3. Definitions.

For the purposes of this article:

“Assessment” means an evaluation to determine whether a criminal defendant is a military service member as defined by this section, that the offense(s) he or she has been charged with are attributable to their military service, and if the offender would benefit from the provisions set forth in this article.

“Court” means a Military Service Members Court.

“Department” means the West Virginia Department of Veterans’ Assistance.

“Mentally ill” means a person who suffers from a manifestation of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion or physical well-being.

“Military Service Members Court team” or “team” is a group of veterans and other professionals which assesses offenders and follows and reports to a court on an offender’s progress.

“Military Service Members Court program” or “program” is a program that includes pre-adjudicatory and post-adjudicatory treatment for military service members.

“Military service member” means a person who is currently serving on active duty in the Army, Air Force, Marines, Navy, or Coast Guard, reserve status, or the National Guard, or a person who once served in the active military and then retired, voluntarily separated, or was discharged dishonorably or under other than honorable conditions.

“Offender” means a criminal defendant who qualifies as a military service member under this article.

“Post-adjudicatory program” means a program in which the offender has admitted guilt or has been found guilty and agrees, with the prosecutor’s consent, to enter a court program as part of his or her sentence.

“Pre-adjudication order” means a court order requiring a military service member to participate in a program as set forth in this article.

“Pre-adjudicatory program” means a program that allows the offender, with the consent of the prosecutor, team, and the court to expedite the offender’s criminal case before conviction or before filing of a criminal case and requires the offender to agree to and successfully complete the court program as part of the written agreement.

“Post adjudication order” means a court order requiring a military service member who has entered a plea of either guilty or *nolo contendere* to a crime identified in §62-16-7 to participate in a court program set forth herein.

“Split sentencing” means a sentence which includes a period of incarceration followed by a period of supervised release.

“Staffing” means the meeting before a military service member offender’s appearance in court, in which the team discusses a coordinated response to the military service member offender’s behavior.

“VA” means the United States Department of Veterans’ Affairs.

“VJO” means the VA Veterans Justice Outreach Program.

“Written agreement” means the agreement executed to allow a military service member to participate in a court program, as referred to in §62-16-5.

§62-16-4. Court authorization and structure.

(a) The Supreme Court of Appeals shall establish a Military Service Members Court Program, under the oversight of the Office of the Administrative Director. Each Military Service Members Court is a separate court, tasked to administer a program providing an immediate and highly structured judicial intervention process for substance abuse treatment, mental health treatment or, other assessed treatment needs of eligible military service member offenders. Each court shall identify and assemble substance abuse professionals, mental health professionals, department professionals, local social programs and intensive judicial monitoring to address the purposes of this article.

(b) The courts shall be established in the areas of the state with the highest need, as determined by the Office of the Administrative Director. The Supreme Court of Appeals shall establish two courts on or before July 1, 2019. The Supreme Court of Appeals shall establish two additional courts each July 1st for the next four years, resulting in a total of ten courts operating by July 1, 2023. At the discretion of the Office of the Administrative Director, the court program may be operated in one county in the circuit and allow military service member offenders from all counties within the circuit to participate.

(c) A court may offer pre-adjudication or post-adjudication programs for adult offenders.

(d) Nothing contained in this article confers a right or an expectation of a right to participate in a court program nor does it obligate a court to accept every military service member offender.

(e) Neither the establishment of a Military Service Members Court nor anything in this article may be construed as limiting the discretion of the jurisdiction’s prosecutor to act on any criminal case which he or she determines advisable to prosecute.

(f) Each program judge may establish rules and may make special orders as necessary that do not conflict with rules and orders promulgated by the Supreme Court of Appeals. The Supreme Court of Appeals shall provide uniform referral, procedure, and order forms that shall be used in all Military Service Members Courts in this state.

§62-16-5. Written agreements.

(a) Participation in a Military Service Members Court program shall be pursuant to a written agreement with the consent of the prosecutor, team, and the court. The written agreement shall set forth all agreed upon provisions which allow the military service member to proceed in the program. The offender shall execute a written agreement with the court to memorialize agreed participation in the program, and all the terms and conditions of the program, including, but not

limited to, the possibility of sanctions or incarceration for failure to comply with the terms of the program, orders of the court, and written agreement.

(b) A court may grant reasonable incentives to, or impose reasonable sanctions on, anyone who fails to comply with the written agreement. At the discretion of the court, sanctions may include incarceration, expulsion from the program, depending on recommendations of the team, and the following factors:

- (1) performance in the court program;
- (2) participation and progress related to education, treatment and rehabilitation;
- (3) criminal conduct during the court program;
- (4) violation of the terms and conditions of the agreement; and
- (5) other participation in the court program.

(c) When the court program is successfully completed, the judge shall dispose of an offender's case in the manner prescribed by the written agreement and by the applicable policies and procedures adopted by the court. Disposition may include, but is not limited to, withholding criminal charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split sentencing, and a reduced period of incarceration.

§62-16-6. Military Service Members Court teams.

(a) The goal of each team shall be to fill its positions with as many veterans as possible. A team shall include, but is not limited to the following members:

- (1) A circuit court judge;
- (2) A magistrate;
- (3) The prosecuting attorney to which the case has been assigned to;
- (4) Counsel for the offender, or if the offender does not have counsel, then a public defender or member of the criminal defense bar;
- (5) A representative from a circuit court probation office;
- (6) A case coordinator;
- (7) Volunteer veteran mentors, with the goal of no mentor mentoring more than two offenders at the same time;
- (8) VA Veteran Justice Outreach Specialist;
- (9) Director of the Day Report Center for that circuit; and
- (10) Any other persons selected by the team

(b) The team shall conduct a staffing prior to each court session to discuss and provide updated information regarding the military service member offender. After determining the offender's progress or lack thereof, the court team shall recommend the appropriate incentive, sanction or other action deemed appropriate. If the team cannot agree on the appropriate action, the court shall make the decision based on information presented at the staffing.

§62-16-7. Eligibility.

(a) A military service member offender, who is eligible for probation based upon the nature of the offense(s) for which he or she has been charged with, and in consideration of his or her criminal background, if any, may, upon application, be admitted into a court program only upon the agreement of the prosecutor and the offender. Additionally, the team must also determine that the offense(s) are in any way attributable to the offender's military service.

(b) A military service member offender may not participate in the court program if he or she has been charged with any of the following offenses:

(1) A sexual offense, including, but not limited to, a violation of the felony provisions of articles eight, eight-b, eight-c, or eight-d of chapter sixty-one, or a criminal offense where the judge has made a written finding that the offense was sexually motivated;

(2) A felony violation of the provisions of sections two, two-a, or three-a, article eight-d of chapter sixty-one;

(3) A felony violation of the provisions of sections three or four, article fourteen, of chapter sixty-one;

(4) A felony violation of sections nine-b or fourteen, article two, of chapter sixty-one;

(5) A felony violation of subsection b, section two, article five, of chapter seventeen-c; or

(6) If he or she has previously been convicted in this state, another state, or in a federal court for any of the offenses enumerated above.

§62-16-8. Procedure.

(a) Upon application, the court shall order the offender to submit to an eligibility screening, a mental health and drug/alcohol screening, and an assessment by the VA JVO to provide information on the offender's mental health or military service member status. The assessment shall include a risks assessment and be based, in part, upon the known availability of treatment resources available to the court. The assessment shall also include recommendations for treatment of the conditions which are indicating a need for treatment under the monitoring of the court and reflect a level of risk assessed for the individual seeking admission. The court is not required to order an assessment if a valid screening or assessment related to the present charge(s) pending against the offender has been completed within the previous sixty days.

(b) Upon completion, the assessment shall be presented to the team for evaluation. After the team has done so, it may request the offender to appear with counsel, if represented, to answer any outstanding questions it may have.

(c) Subsequently, the team shall privately discuss the offender's assessment and vote on his or her eligibility for the program.

(d) If determined by majority vote that the veteran offender is accepted, the veteran shall be assigned a mentor and the team shall determine an individual course of action for the veteran offender. The team shall then present their plan to the veteran and introduce the veteran to his or her mentor.

(e) If the veteran offender is not accepted the team shall present to the veteran offender explanation as to why he or she has not been accepted.

(f) When considering treatment, the team shall first utilize benefits available to the offender through the VA. The court may order the offender to complete substance abuse treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program, order the offender to complete mental health counseling in an inpatient or outpatient basis, comply with all physicians' recommendations regarding medications and complete all follow up treatment. The mental health issues for which treatment may be provided, include, but are not limited to, post-traumatic stress disorder, traumatic brain injury and depression.

(g) The judge shall inform the offender that if he or she fails to meet the conditions of the court, eligibility to participate in the program may be revoked and the offender shall be subject to the sanctions set forth in section ten of this article.

§62-16-9. Mental health and substance abuse treatment.

(a) The court may maintain a network of mental health treatment programs and substance abuse treatment programs representing a continuum of graduated mental health and substance abuse treatment options commensurate with the needs of offenders; these shall include programs with the VA, the department, this state, and community-based programs.

(b) The court may, in its discretion, employ additional services or interventions, as it determines necessary, on a case-by-case basis.

(c) The court may maintain or collaborate with a network of mental health treatment programs and, if it is a cooccurring mental health and substance abuse court program, a network of mental health treatment programs and substance abuse treatment programs representing a continuum of treatment options commensurate with the needs of the offender and available resources including programs with the VA, the department, and this state

§62-16-10. Violation; termination; discharge.

(a) The court may impose reasonable sanctions under the offender's written agreement, including, but not limited to, imprisonment or dismissal of the offender from the program. The court may reinstate criminal proceedings against him or her for a violation of probation, conditional discharge, or supervision hearing, if the court finds from the evidence presented, including, but not limited to, the reports or proffers of proof from the court's professionals that:

(1) The offender is not performing satisfactorily in the assigned program;

(2) The offender is not benefitting from educational treatment or rehabilitation;

(3) The offender has engaged in criminal conduct rendering him or her unsuitable for the program; or

(4) The offender has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate.

(b) Upon successful completion of the terms and conditions of the program, the court may dismiss the original charges against the offender, successfully terminate the offender's sentence, permit the offender to enter into a plea agreement to a lesser offense, or otherwise discharge him or her from any further proceedings against him or her in the original prosecution.

(c) Upon successful completion of the terms and conditions of the program or if the presiding judge determines the lack of the ability to drive is preventing program success, the court may expunge any driving offences that currently prevent the veteran offender from obtaining a West Virginia driver's license.

§62-16-11. Governance.

The Supreme Court of Appeals is responsible for court funding, administration, and continuance of Military Service Members Courts. The Administrator of the Supreme Court of Appeals, or his or her designee, shall oversee the planning, implementation, and development of these courts as the administrative arm of the Supreme Court of Appeals.

§62-16-12. Program integrity and offender accountability.

(a) The courts shall collect and maintain the following information and any other information on participants as required by the Supreme Court of Appeals or its administrative office:

(1) The participants' prior criminal history;

(2) The participants' prior substance abuse and mental health treatment history;

(3) The participants' employment, education, and income histories;

(4) The participants' gender, race, ethnicity, marital and family status, and any child custody and support obligations;

(5) Instances of participants' recidivism occurring during and after participation in a court program. Recidivism shall be measured at intervals of six months, one year, two years, and five years after successful graduation from Military Service Members Court;

(6) The number of offenders screened for eligibility, the number of eligible offenders who were and were not admitted, and their case dispositions; and

(7) The costs of operation and sources of funding.

(b) An offender may be required, as a condition of pretrial diversion, probation, or parole, to provide the information described in this section. The collection and maintenance of information under this section shall be collected in a standardized format according to applicable guidelines set forth by the Supreme Court of Appeals.

(c) To protect an offenders' privacy in accordance with federal and state confidentiality laws, a court shall keep treatment records in a secure environment, separated from the court records to which the public has access.

§62-16-13. Funding.

(a) Each Military Service Members Court, with the guidance of the Supreme Court of Appeals, may establish a schedule for the payment of reasonable fees and costs to be paid by participants necessary to conduct the program.

(b) Nothing in this article shall prohibit court teams from obtaining supplemental funds or exploring grants to support the Military Service Members Courts.

§62-16-14. Immunity from Liability.

Any individual who, in good faith, provides services pursuant to this article is not liable in any civil action, unless his or her actions were the result of the gross negligence or willful misconduct. The grant of immunity provided in this section extends to all employees and administrative personnel of a court.;

And,

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

Eng. Com. Sub. for Senate Bill 40—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, §62-16-13 and §62-16-14, all relating to establishing a Military Service Members Court program within Supreme Court of Appeals; providing legislative findings; defining terms; granting authority to oversee court to Administrator of Supreme Court of Appeals; setting forth structure of court; providing for written agreement to participate in court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of court; setting out disposition on successful completion; providing for teams to function within court; setting forth eligibility requirements for participation; setting forth procedure to participate in court; allowing for mental health and drug treatment services for participants; providing for governance of court by Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; and providing for limitation of liability.

On motion of Senator Weld, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 40) were reported by the Clerk, considered simultaneously, and adopted:

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

ARTICLE 16. THE MILITARY SERVICE MEMBERS COURT ACT.

§62-16-1. Short title.

This may be cited as the Military Service Members Court Act.

§62-16-2. Legislative findings.

(a)(1) The Legislature recognizes that while most veterans are strengthened by their military service, the combat experiences of many veterans have unfortunately left a growing number of veterans who suffer from issues such as Post Traumatic Stress Disorder and traumatic brain injury. A growing body of research shows that one in five veterans will have symptoms of a mental illness, mental health disorder, or cognitive impairment. One in six veterans who served in either Operation Enduring Freedom or Operation Iraqi Freedom suffer from substance abuse and related issues. As a result, many veterans have found themselves in the criminal court system charged with crimes which may be directly attributable to these service-related issues.

(2) The Legislature further recognizes that a Military Service Members Court is necessary to link veterans with the programs, benefits, and services that are necessary to help them overcome these issues and provide them with rehabilitation services instead of incarceration.

(3) Given the context of veteran life, especially given their past training and experiences in the Armed Forces, it is reasonably anticipated and likely that military service members would respond favorably to a structured environment. The Military Service Members Court is a professional, structured, and monitored program which mandates and provides participant accountability and responsibility, including mandatory court appearances, treatment, and counseling sessions, as well as frequent and random testing for drug and alcohol use. However, the Legislature also finds that some may still struggle. Those are the veterans who need the structure and support of a Military Service Members Court program the most. Without the structure of a Military Service Members Court program mentally ill and challenged veterans may well reoffend, remain in the criminal court system, and suffer under the emotional, physical, and mental yoke of substance abuse.

(4) The Legislature creates the Military Service Members Court to ensure that these veterans in need are able meet their obligations to themselves, their family, their loved ones, the court, and their community.

§62-16-3. Definitions.

For the purposes of this article:

“Assessment” means an evaluation to determine whether a criminal defendant is a military service member as defined by this section, that the offense he or she has been charged with are attributable to their military service, and if the offender would benefit from the provisions set forth in this article.

“Court” means a Military Service Members Court.

“Department” means the West Virginia Department of Veterans Assistance.

“Military Service Members Court program” or “program” is a program that includes pre-adjudicatory and post-adjudicatory treatment for military service members.

“Military service member” means a person who is currently serving in the Army, Air Force, Marines, Navy, or Coast Guard on active duty, reserve status, or in the National Guard, or a person who served in the active military, or who was discharged or released under conditions other than dishonorable.

“Offender” means a criminal defendant who qualifies as a military service member under this article.

“Post-adjudicatory program” means a program in which the offender has admitted guilt or has been found guilty and agrees, with the prosecutor’s consent, to enter a court program as part of his or her sentence.

“Pre-adjudicatory program” means a program that allows the offender, with the consent of the prosecutor, team, and the court to expedite the offender’s criminal case before conviction or before filing of a criminal case and requires the offender to agree to and successfully complete the court program as part of the written agreement.

“VA” means the United States Department of Veterans Affairs.

“VJO” means the Veterans Justice Outreach program of the United States Department of Veterans Affairs.

“Written agreement” means the agreement executed to allow a military service member to participate in a court program.

§62-16-4. Court authorization; funding; immunity from liability.

(a) Court authorization. — The Supreme Court of Appeals is hereby authorized to establish a Military Service Members Court program, under the oversight of its administrator. Each Military Service Members Court may be a stand-alone court or operated in conjunction with an existing drug court or other specialty court program. The Supreme Court is further encouraged to give deference to circuits or regions in the operation of those programs to maximize flexibility, and to take into account regional and other differences and circumstance.

(b) Once a program is established, termination of any program may not take place until at least six months after written notice of the intent to terminate the program has been provided by the Supreme Court administrator to the Speaker of the House of Delegates and the President of the Senate.

(c) Each court judge may establish rules and may make special orders as necessary that do not conflict with rules and orders promulgated by the Supreme Court of Appeals to effectuate the purposes of this article.

(d) A court may offer pre-adjudication or post-adjudication programs for adult offenders.

(e) Nothing contained in this article confers a right or an expectation of a right to participate in a court program nor does it obligate a court to accept every military service member offender.

(f) Neither the establishment of a Military Service Members Court nor anything in this article may be construed as limiting the discretion of the prosecuting attorney to act on any criminal case which he or she determines advisable to prosecute.

(g) Funding. — Each Military Service Members Court, with the guidance of the Supreme Court of Appeals, may establish a schedule for the payment of reasonable fees and costs to be paid by participants necessary to conduct the program.

(h) Nothing in this article prohibits Military Service Members Courts from obtaining supplemental funds or exploring grants to support the courts.

(i) Immunity from liability. — Any person who, in good faith, provides services pursuant to this article is not liable in any civil action, unless his or her actions were the result of gross negligence or willful misconduct. The grant of immunity provided in this section extends to all employees and administrative personnel of a court.

§62-16-5. Eligibility; written agreement.

(a) Eligibility. — A military service member offender, who is eligible for probation based upon the nature of the offense for which he or she has been charged, and in consideration of his or her criminal background, if any, may, upon application, be admitted into a court program only upon the agreement of the prosecutor and the offender. Additionally, the court must also determine whether the offense is in any way attributable to the offender's military service.

(b) A military service member offender may not participate in the court program if he or she has been charged with any of the following offenses:

(1) A sexual offense, including, but not limited to, a violation of the felony provisions of §61-8-1 et seq., §61-8B-1 et seq., §61-8C-1 et seq., or §61-8D-1 et seq. of this code, or a criminal offense where the judge has made a written finding that the offense was sexually motivated;

(2) A felony violation of the provisions of §61-8D-2, §61-8D-2a, or §61-8D-3a of this code;

(3) A felony violation of the provisions of §61-14-3 or §61-14-4 of this code;

(4) A felony violation of §61-2-9b or §61-2-14 of this code;

(5) A felony violation of §61-2-28 of this code;

(6) A felony violation of §17C-5-2(b) of this code; or

(7) If he or she has previously been convicted in this state, another state, or in a federal court for any of the offenses enumerated above.

(c) Written agreement. — Participation in a Military Service Members Court program, with the consent of both the prosecutor and the court, shall be pursuant to a written agreement. This written agreement shall set forth all of the agreed upon provisions to allow the military service member offender to proceed in the court. The offender shall execute a written agreement with the court as to his or her participation in the program and shall agree to all of the terms and conditions of the program, including, but not limited to, the possibility of sanctions or incarceration for failing to comply with the terms of the program.

(d) Upon successful completion of a court program, the judge shall dispose of an offender's case in the manner prescribed by the written agreement and by the applicable policies and procedures adopted by the court. Disposition may include, but is not limited to, withholding criminal charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split sentencing, or a reduced period of incarceration.

§62-16-6. Procedure; mental health and substance abuse treatment; violation; termination.

(a) Procedure. — Upon application, the court shall order the offender to submit to an eligibility screening, a mental health and drug/alcohol screening, and an assessment by the VA VJO to provide information on the offender's mental health or military service member status. The assessment shall include a risks assessment and be based, in part, upon the known availability of treatment resources available to the court. The assessment shall also include recommendations for treatment of the conditions which are indicating a need for treatment under the monitoring of the court and reflect a level of risk assessed for the individual seeking admission. The court is not required to order an assessment if a valid screening or assessment related to the present charge(s) pending against the offender has been completed within the previous 60 days.

(b) The court may order the offender to complete substance abuse treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program, order the offender to complete mental health counseling in an inpatient or outpatient basis, comply with all physician recommendations regarding medications, and complete all follow-up treatment. The mental health issues for which treatment may be provided include, but are not limited to, post-traumatic stress disorder, traumatic brain injury, and depression.

(c) Mental health and substance abuse treatment. — The court may maintain a network of mental health treatment programs and substance abuse treatment programs representing a continuum of graduated mental health and substance abuse treatment options commensurate with the needs of offenders; these shall include programs with the VA, the department, this state, and community-based programs.

(d) Violation. — The court may impose reasonable sanctions under the offender's written agreement, including, but not limited to, imprisonment or dismissal of the offender from the program. The court may reinstate criminal proceedings against him or her for a violation of probation, conditional discharge, or supervision hearing, if the court finds from the evidence presented, including, but not limited to, the reports or proffers of proof from the court's professionals that:

(1) The offender is not performing satisfactorily in the assigned program;

(2) The offender is not benefitting from educational treatment or rehabilitation;

(3) The offender has engaged in criminal conduct rendering him or her unsuitable for the program; or

(4) The offender has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate.

(e) Termination. — Upon successful completion of the terms and conditions of the program, the court may dismiss the original charges against the offender, successfully terminate the offender's sentence, permit the offender to enter into a plea agreement to a lesser offense, or otherwise discharge him or her from any further proceedings against him or her in the original prosecution.

(f) Notwithstanding any provision of this code to the contrary, upon successful completion of the terms and conditions of the program or if the presiding judge determines the lack of the ability to operate a motor vehicle is preventing program success, the court may expunge any driving offenses that prevent the veteran offender from obtaining a West Virginia driver's license.

§62-16-7. Program integrity and offender accountability.

(a) If deemed appropriate by the Supreme Court of Appeals or its administrative office, the courts shall collect and maintain information on participants which may include, but is not limited to, the following:

(1) The participants' prior criminal history;

(2) The participants' prior substance abuse and mental health treatment history;

(3) The participants' employment, education, and income histories;

(4) The participants' gender, race, ethnicity, marital and family status, and any child custody and support obligations;

(5) Instances of participants' recidivism occurring during and after participation in a court program. Recidivism may be measured at intervals of six months, one year, two years, and five years after successful graduation from Military Service Members Court;

(6) The number of offenders screened for eligibility, the number of eligible offenders who were and were not admitted, and their case dispositions; and

(7) The costs of operation and sources of funding.

(b) An offender may be required, as a condition of pretrial diversion, probation, or parole, to provide the information described in this section. The collection and maintenance of information under this section shall be collected in a standardized format according to applicable guidelines set forth by the Supreme Court of Appeals.

(c) To protect an offenders' privacy in accordance with federal and state confidentiality laws, a court shall keep treatment records in a secure environment, separated from the court records to which the public has access.;

And,

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

Eng. Com. Sub. for Senate Bill 40—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, and §62-16-7, all relating to establishing a Military Service Members Court program within the Supreme Court of Appeals; providing legislative findings establishing the need for creation of a Military Service Members Court program; defining terms; granting authority to the Supreme Court of Appeals to establish a Military Service Members Court program under the oversight of its administrator; providing for no termination of any program until at least six months after written notice of the intent to terminate the program has been provided by the Supreme Court of Appeals Administrator to the Speaker of the House of Delegates and the President of the Senate; providing that a Military Service Members Court judge may establish rules and make special orders as necessary that do not conflict with rules and orders promulgated by the Supreme Court of Appeals to effectuate the purposes of the program; providing for funding mechanisms which may include court fees; providing for limitation of liability; setting forth eligibility requirements for participation; providing for written agreement to participate in the court; setting

forth procedure to participate in court; allowing for mental health and drug treatment services for participants; providing for sanctions for violation of provisions of the court; setting forth incentives for successful participation; setting out disposition on successful completion; providing that Military Service Members Courts shall if deemed appropriate by the Supreme Court of Appeals collect and maintain information on program participants; setting forth that offenders may be required to provide certain information to Military Service Members Courts; and requiring Military Service Members Courts to keep offender treatment records in a secure environment separated from the court records to which the public has access.

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

Engrossed Committee Substitute for Senate Bill 40, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 40) 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 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 398, Relating to compensation for senior judges.

On motion of Senator Takubo, 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:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-48. Reemployment after retirement; options for holder of elected public office.

(a) The Legislature finds that a compelling state interest exists in maintaining an actuarially sound retirement system and that this interest necessitates that certain limitations be placed upon

an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares that the interests of the public are served when persons having retired from public employment are permitted, within certain limitations, to render post-retirement employment in positions of public service, either in elected or appointed capacities. The Legislature further finds and declares that it has the need for qualified employees and that in many cases an employee of the Legislature will retire and be available to return to work for the Legislature as a per diem employee. The Legislature further finds and declares that in many instances these employees have particularly valuable expertise which the Legislature cannot find elsewhere. The Legislature further finds and declares that reemploying these persons on a limited per diem basis after they have retired is not only in the best interests of this state but has no adverse effect whatsoever upon the actuarial soundness of this particular retirement system.

(b) For the purposes of this section: (1) "Regularly employed on a full-time basis" means employment of an individual by a participating public employer, in a position other than as an elected or appointed public official, which normally requires 12 months per year service and at least 1,040 hours of service per year in that position; (2) "temporary full-time employment" or "temporary part-time employment" means employment of an individual on a temporary or provisional basis by a participating public employer, other than as an elected or appointed public official, in a position which does not otherwise render the individual as regularly employed; (3) "former employee of the Legislature" means any person who has retired from employment with the Legislature and who has at least 10 years' contributing service with the Legislature; and (4) "reemployed by the Legislature" means a former employee of the Legislature who has been reemployed on a per diem basis not to exceed 175 days per calendar year.

(c) ~~In the event~~ If a retirant becomes regularly employed on a full-time basis by a participating public employer, payment of his or her annuity shall be suspended during the period of his or her reemployment and he or she shall become a contributing member to the retirement system. If his or her reemployment is for a period of one year or longer, his or her annuity shall be recalculated and he or she shall be granted an increased annuity due to the additional employment, the annuity to be computed according to §5-10-22 of this code. If his or her reemployment is for a period less than one year, he or she may request in writing that the employee and employer retirement contributions submitted during reemployment be credited to the participating public employer pursuant to §5-10-44 of this code, and his or her previous annuity shall be reinstated effective the first day of the month following termination of reemployment and the board's receipt of written notice thereof. A retirant may accept legislative per diem, temporary full-time, or temporary part-time employment from a participating employer without suspending his or her retirement annuity so long as he or she does not receive annual compensation in excess of \$20,000.

(d) Senior judges, justices, and magistrates. –

(1) Notwithstanding the provisions of subsection (c) of this section, a retired judge or justice who is recalled and assigned to temporary service as a senior judge or justice by the West Virginia Supreme Court of Appeals may receive per diem compensation pursuant to the requirements of §51-9-10 of this code while continuing to receive his or her annuity.

(2) Notwithstanding the provisions of subsection (c) of this section, a retired magistrate who is recalled and assigned to temporary service as a senior magistrate by the West Virginia Supreme Court of Appeals may receive per diem compensation pursuant to the requirements of §50-1-6a of this code while continuing to receive his or her annuity.

~~(d) (e)~~ ~~In the event~~ If a member retires and is then subsequently elected to a public office or is subsequently appointed to hold an elected public office, or is a former employee of the Legislature who has been reemployed by the Legislature, he or she has the option, notwithstanding subsection (c) of this section, to either:

(1) Continue to receive payment of his or her annuity while holding public office or during any reemployment of a former employee of the Legislature on a per diem basis, in addition to the salary he or she may be entitled to as an office holder or as a per diem reemployed former employee of the Legislature; or

(2) Suspend the payment of his or her annuity and become a contributing member of the retirement system as provided in subsection (c) of this section. Notwithstanding the provisions of this subsection, a member who is participating in the system as an elected public official may not retire from his or her elected position and commence to receive an annuity from the system and then be elected or reappointed to the same position unless and until a continuous 12-month period has passed since his or her retirement from the position: *Provided*, That a former employee of the Legislature may not be reemployed by the Legislature on a per diem basis until at least 60 days after the employee has retired: *Provided, however*, That the limitation on compensation provided by subsection (c) of this section does not apply to the reemployed former employee: *Provided further*, That in no event may reemployment by the Legislature of a per diem employee exceed 175 days per calendar year.

~~(e) (f)~~ A member who is participating in the system simultaneously as both a regular, full-time employee of a participating public employer and as an elected or appointed member of the legislative body of the state or any political subdivision may, upon meeting the age and service requirements of this article, elect to retire from his or her regular full-time state employment and may commence to receive an annuity from the system without terminating his or her position as a member of the legislative body of the state or political subdivision: *Provided*, That the retired member shall not, during the term of his or her retirement and continued service as a member of the legislative body of a political subdivision, be eligible to continue his or her participation as a contributing member of the system and shall not continue to accrue any additional service credit or benefits in the system related to the continued service.

~~(f) (g)~~ Notwithstanding the provisions of §5-10-27b of this Code, any publicly elected member of the legislative body of any political subdivision or of the State Legislature, the Clerk of the House of Delegates, and the Clerk of the Senate may elect to commence receiving in-service retirement distributions from this system upon attaining the age of 70 and one-half years: *Provided*, That the member is eligible to retire under the provisions of §5-10-20 or §5-10-21 of this code: *Provided, however*, That the member elects to stop actively contributing to the system while receiving the in-service distributions.

~~(g) (h)~~ The provisions of §5-10-22h of this code are not applicable to the amendments made to this section during the 2006 regular session.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-6a. Temporary appointment of retired magistrates.

~~(a) The West Virginia Supreme Court of Appeals is authorized and empowered to create a panel of senior magistrates to consist of, and to utilize the talent and experience of, retired magistrates of this state. The Supreme Court of Appeals shall promulgate rules providing for such senior magistrates to be assigned duties as needed and as feasible toward the objective of reducing caseloads and providing for replacement of magistrates who are unavailable. *Provided*, That reasonable payment shall be made to said senior magistrates on a per diem basis: *Provided, however*, That the per diem and retirement compensation of a senior magistrate shall not exceed the salary of a sitting magistrate and allowances shall also be made for necessary expenses pursuant to the travel regulations of the Supreme Court of Appeals.~~

(b) Senior magistrates recalled and assigned to service shall receive per diem compensation set by the Supreme Court of Appeals, but not to exceed \$200 for each day actually served: *Provided*, That the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate, except as set forth in subsection (c) of this section.

(c) Notwithstanding subsection (b) of this section, for purposes of maintaining magisterial efficacy and continuity of magisterial decision-making, a senior magistrate may continue to receive per diem compensation after the combined total of per diem compensation and retirement benefits paid to the senior magistrate during that calendar year exceeds the annual salary of a sitting magistrate if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying there are certain extraordinary circumstances involving the necessary absence of a sitting magistrate because of a protracted, but temporary, illness or medical condition or a lengthy suspension which necessitate the extended assignment of the senior magistrate. Immediately upon entering such an order, the chief justice shall submit copies of the order to the State Auditor and the State Treasurer.

(d) In addition to the compensation authorized by this section, senior magistrates recalled to service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-10. Services of senior judges and justices.

(a) The Legislature finds that:

(1) Section seven, article VIII of the Constitution of West Virginia expressly requires the Legislature to fix judicial salaries by statute, providing that: "[j]ustices, judges and magistrates shall receive the salaries fixed by law".

(2) When originally enacted in 1949, this section of the code required any retired judge receiving retirement benefits to serve as a special judge, when assigned to temporary service, "without charge or compensation, per diem or otherwise to him".

(3) In 1974, the Judicial Reorganization Amendment to the Constitution of West Virginia was ratified. Among other matters, in section eight, article VIII, the amendment addressed the ongoing practice of recalling retired judicial officers to service by empowering the Chief Justice of the

Supreme Court of Appeals to recall a retired judge or justice to service, “with his permission and with the approval of the supreme court of appeals”, for temporary assignment.

(4) Absent from the Judicial Reorganization Amendment and article VIII of the Constitution of West Virginia is any provision authorizing the Supreme Court of Appeals to fix compensation for recalled judges or justices. Indeed, the Judicial Reorganization Amendment added language to section seven, article VIII of the Constitution of West Virginia, unequivocally stating that “[j]ustices, judges and magistrates shall receive the salaries fixed by law”.

(5) In 1975, the Legislature amended and reenacted this section of the code, which still then required any retired judge receiving retirement benefits to serve as a special judge, when assigned to temporary service “without charge or compensation, per diem or otherwise to him”.

(6) In 1991, the Legislature amended and reenacted this section of the code again, authorizing and empowering the Supreme Court of Appeals to create a panel of senior judges and justices “to be assigned duties as needed and as feasible toward the objective of reducing caseloads and providing speedier trials to litigants throughout the State”.

(7) The 1991 reenactment of this section of the code statutorily authorized, for the first time, “reasonable payment” to senior judges and justices “on a per diem basis”, and provided that “the per diem and retirement compensation of a senior judge shall not exceed the salary of a sitting judge”.

(8) In 2018, the West Virginia House of Delegates adopted and communicated Articles of Impeachment to the West Virginia Senate, naming justices of the Supreme Court of Appeals serving at that time as respondents. Several of the articles alleged that certain justices, each while serving as Chief Justice of the Supreme Court of Appeals, had intentionally signed contracts agreeing to pay retired judges recalled to service above the compensation limitations of this section of the code.

(9) In a petition to the Supreme Court of Appeals, styled *State ex. rel. Workman v. Carmichael*, one justice named as respondent in the 2018 impeachment proceedings challenged the constitutionality of the Articles of Impeachment in which she was named, including the articles alleging payment of senior judges above the limitations of this section of the code.

(10) In ruling on the petition in *State ex. rel. Workman v. Carmichael*, the Supreme Court of Appeals, at that time composed of five circuit judges temporarily assigned to sit as justices for that case, issued a writ of prohibition staying impeachment proceedings.

(11) In direct contradiction of section seven, article VIII of the Constitution of West Virginia, the decision in *State ex. rel. Workman v. Carmichael* held, in part, that this section of the code, providing for and limiting the compensation of senior judges, is “unconstitutional and unenforceable”.

(12) The majority opinion in *State ex. rel. Workman v. Carmichael* ignored the plain language of section seven, article VIII of the Constitution of West Virginia, which explicitly provides that “[j]ustices, judges and magistrates shall receive the salaries fixed by law”.

(13) Syllabus point four of the majority opinion in *State ex. rel. Workman v. Carmichael* mischaracterizes what the Legislature had done in enacting this section of the code, by providing that: “West Virginia Code §51-9-10 (1991) violates the Separation of Powers Clause of Article V,

§ 1 of the West Virginia Constitution, insofar as that statute seeks to regulate judicial appointment matters that are regulated exclusively by this Court pursuant to Article VIII, § 3 and § 8 of the West Virginia Constitution. Consequently, W.Va. Code §51-9-10, in its entirety, is unconstitutional and unenforceable”.

(14) Occasionally, circumstances may require the extended assignment of senior judges and justices, necessitating the Legislature to prescribe such circumstances when the limitations on compensation of senior judges and justices receiving retirement benefits may be exceeded.

(b) ~~The West Virginia Supreme Court of Appeals is authorized and empowered to~~ The Legislature recognizes and acknowledges the authority of the West Virginia Supreme Court of Appeals to recall retired judges and justices for temporary assignment and to create a panel of senior judges and justices to utilize the talent and experience of former circuit court judges and supreme court justices of this state: *Provided*, That extended assignment of retired judges and justices must not be utilized in such a way as to threaten the qualified status of the Judges Retirement System under applicable provisions of the Internal Revenue Code, including Treasury Regulation section 1.401(a)-1(b)(1) requiring that a qualified plan must be established primarily to provide payment of definitely determinable benefits to its employees after retirement or attainment of normal retirement age. ~~The Supreme Court of Appeals shall promulgate rules providing for said judges and justices to be assigned duties as needed and as feasible toward the objective of reducing caseloads and providing speedier trials to litigants throughout the state.~~ *Provided*, That Reasonable payment shall be made to said judges and justices on a per diem basis: *Provided*, however, That the per diem and retirement compensation of a senior judge shall not exceed the salary of a sitting judge and allowances shall also be made for necessary expenses as provided for special judges under §51-2-1 et seq. and §51-9-1 et seq. of this Code

(c) Senior judges and justices recalled and assigned to service shall receive per diem compensation set by the Supreme Court of Appeals, but not to exceed \$430 for each day actually served: *Provided*, That the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge, except as set forth in subsection (d) of this section.

(d) Notwithstanding subsection (c) of this section, for purposes of maintaining judicial efficacy and continuity in judicial decision-making, a senior judge or justice may continue to receive per diem compensation after the combined total of per diem compensation and retirement benefits paid to the senior judge or justice during that calendar year exceeds the annual salary of a sitting circuit judge if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying there are certain extraordinary circumstances involving the necessary absence of a sitting judicial officer because of a protracted, but temporary, illness or medical condition or a lengthy suspension which necessitate the extended assignment of the senior judge or justice. Immediately upon entering such an order, the Chief Justice shall submit copies of the order to the State Auditor and the State Treasurer.

(e) In addition to the per diem compensation authorized by this section, senior judges and justices recalled to service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(f) Within 90 days after the effective date of this section, the Treasurer, as the chief custodian of public funds, shall petition the West Virginia Supreme Court of Appeals for a writ of prohibition pursuant to the court's original jurisdiction, naming as respondent the State Auditor and petitioning the court to prohibit the State Auditor from issuing any warrant for the payment of per diem

compensation to senior judges and justices in excess of the limitation on the daily rate of per diem compensation in subsection (c) of this section.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 398) was reported by the Clerk and adopted:

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

Eng. Com. Sub. for Senate Bill 398—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §50-1-6a of said code; and to amend and reenact §51-9-10 of said code, all relating to compensation for senior judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; setting forth legislative findings; limiting the per diem rate of compensation that may be paid to senior judges and justices for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge; limiting the per diem rate of compensation that may be paid to senior magistrates for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior judge, justice, or magistrate in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such judge, justice, or magistrate; providing that extended assignment of senior judges or justices must not be utilized in a manner to threaten the qualified status of the Judges' Retirement System under certain provisions of the Internal Revenue Code; requiring that administrative orders regarding extended assignment of a senior judge, justice, or magistrate be submitted to the State Auditor and the State Treasurer; providing that senior judges, justices, and magistrates may be reimbursed for actual and necessary expenses incurred in the performance of their duties; and requiring the State Treasurer to petition the West Virginia Supreme Court of Appeals for a writ of prohibition prohibiting the State Auditor from issuing warrants to authorize payment of compensation to senior judges and justices above statutory limitations.

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

Engrossed Committee Substitute for Senate Bill 398, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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 Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 398) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment, and requested 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 Senate Bill 241, Permitting county court clerks scan certain documents in electronic form.

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

Delegates C. Martin, Worrell, and Hicks.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

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

Senators Sypolt, Swope, and Facemire.

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 that that body had refused to recede from its amendments, and requested 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 Com. Sub. for Senate Bill 317, Authorizing three or more adjacent counties form multicounty trail network authority.

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

Delegates Howell, Hott, and Hansen.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

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

Senators Maynard, Smith, and Beach.

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 16, Authorizing expenditure of surplus funds by Wyoming County 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 264, Requiring courts to order restitution to crime victims where economically practicable.

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 329, Relating to agricultural education in high schools.

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 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

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 369, Relating to generic drug products.

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 396, Waiving occupational licensing fees for low-income individuals and military families.

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

Eng. Senate Bill 461, Relating generally to lottery prizes.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2019, of

Eng. Com. Sub. for Senate Bill 502, Exempting sales of investment metal bullion and coins.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendment to, and the passage as amended by deletion, of

Eng. Senate Bill 566, Relating to compensation for State Athletic Commission members.

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

Eng. Com. Sub. for Senate Bill 601, Relating to mandatory supervision of adult inmates.

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

Eng. Senate Bill 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.

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

Eng. Senate Bill 627, Relating generally to Rural Rehabilitation Loan Program.

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 640, Regulating sudden cardiac arrest prevention.

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

Eng. Senate Bill 670, Relating to WV College Prepaid Tuition and Savings Program.

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

Senate Concurrent Resolution 9, US Army PFC Winten L. Wayts Memorial Bridge.

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

Senate Concurrent Resolution 12, US Army CPL Lee Roy Young Memorial Bridge.

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

Senate Concurrent Resolution 20, US Air Force SSGT Ryan David Hammond Memorial Bridge.

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

Eng. Com. Sub. for House Bill 2004, Providing for a program of instruction in workforce preparedness.

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 2396, West Virginia Fresh Food Act.

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. House Bill 2412, Relating to criminal acts concerning government procurement of commodities and 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 2480, Relating to the regulation of an internationally active insurance group.

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, of

Eng. Com. Sub. for House Bill 2524, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

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, of

Eng. Com. Sub. for House Bill 2541, Requiring certain safety measures be taken at public schools.

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 2600, Relating to publication of sample ballots.

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 2813, Relating generally to collection of use tax.

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, to take effect from passage, of

Eng. Com. Sub. for House Bill 2831, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

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. House Bill 2846, Designating a “Back the Blue” plate in support of law-enforcement personnel.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 11:21 a.m. today:

Eng. Com. Sub. for Senate Bill 481, Relating to Judicial Vacancy Advisory Commission

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

Eng. Com. Sub. for House Bill 2049, Relating to a prime contractor’s responsibility for wages and benefits.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2049 pass?”

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

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2049) 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 2049—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-4a; and to amend and reenact §21-5-7 of said code, all relating to actions brought to recover wages and fringe benefits; providing a safe harbor for employers to correct underpayment or nonpayment of wages and fringe benefits due to separated employees prior to the filing of a lawsuit; prohibiting an employee from seeking liquidated damages or attorney’s fees when bringing an action for the underpayment or nonpayment of wages and benefits due upon the employee’s separation of employment without first making a written demand on the employer; permitting only those employees who have made

a written demand on the employer may be included in a class action lawsuit brought for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment; defining the term "written demand"; and requiring employers to notify employees of their obligations through a posted notice and written notice in the employee's last paycheck or paystub; requiring notice to prime contractor by certified mail within 100 days of the missing wages becoming payable to the employee; instituting a one-year statute of limitations; requiring the employer of the employee to whom wages and fringe benefits are owed to whenever feasible provide immediately upon request by the employee or the prime contractor complete payroll records relating to work performed under the contract with the prime contractor; requiring when an employee to whom wages and fringe benefits are due is represented by a union that the union must whenever feasible immediately upon notice of a claim cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor; providing that if the union or its agents become aware that an employer is not timely in the payment of wages and fringe benefits the union must immediately notify the affected employee and the prime contractor for whom the affected employee provided work; and providing that a prime contractor must notify the owner and the architect prior to the completion of the contract if any subcontractor has not been paid in full.

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 2583, Family Planning Access Act.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2583 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2583) 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 2670, Relating to damages for medical monitoring.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2670 pass?”

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

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—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. 2670) 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 2670—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to damages for medical monitoring; establishing requirements for an order for payment of medical monitoring expenses; providing that an increased risk of disease is not a compensable basis for damages in any civil action; requiring proof that future medical surveillance, screening tests, or monitoring procedures are directly related to a presently existing and diagnosable physical disease caused by the defendant’s conduct; prohibiting payment for cost of future medical surveillance, screening tests, or monitoring procedures until they are completed; allowing court to order defendant to make periodic payments into a fund to pay future costs; and authorizing court to determine when future medical surveillance, screening tests, or monitoring procedures are no longer required and providing for disbursement of any moneys remaining in the fund.

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

Eng. House Bill 3143, Relating to requirements for consumer loans in West Virginia.

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

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

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, Sypolt, and Unger—10.

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. 3143) passed with its title.

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

Eng. House Bill 2828, Relating to Qualified Opportunity Zones.

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

Senator Plymale requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is the secretary-treasurer for a 501(c)(3) that has two properties in opportunity zones.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2828) passed.

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

Eng. House Bill 2828—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §11-21-12j; and to amend said code by adding thereto a new section, designated §11-24-6b; and to amend said code by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, §31-15D-5, §31-15D-6, and §31-15D-7; and to amend said code by adding thereto a new section, designated §33-3-14e; all relating to promoting investment and business growth in low-income communities in West Virginia; providing title; defining terms; providing for transferability; certification of qualified equity investment; providing for recapture of tax credits; requiring notice of noncompliance; letter rulings; new capital requirement; reporting; providing penalty for job creation underperformance; establishing amount of credit allowed; providing mechanism to exempt corporate net income tax and personal income tax for new businesses in Qualified Opportunity Zones located in West Virginia; providing effective date; authorizing rulemaking in Commissioner.

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

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

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

House Concurrent Resolution 14—Requesting the Division of Highways name bridge number 50-64-2.67 EB & WB (50A208, 50A209), locally known as Hubbards Branch Bridges, carrying Interstate 64 (EB & WB) over County Route 5/1 in Wayne County, the “U. S. Army CPT Benjamin Ronk Memorial Bridge”.

At the request of Senator Plymale, and by unanimous consent, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration.

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

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

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 6—Requesting the Division of Highways name bridge number 20-60-36.23 (20A160), locally known as US 60 Cedar Grove Overpass 3565 Bridge, carrying U. S. 60 over County Route 81, Kanawha County, the “U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders Jr. Memorial Bridge”.

At the request of Senator Palumbo, and by unanimous consent, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration.

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

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

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 17—Requesting the Division of Highways name bridge number 20-73/5-0.55, locally known as Point Lick Bridge, carrying Route 73/5 over Campbells Creek in Kanawha County, the “U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge”.

At the request of Senator Palumbo, and by unanimous consent, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration.

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

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

At the request of Senator Boso, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2694, Relating to the state’s ability to regulate hemp.

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

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Azinger—1.

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. 2694) 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 2694—A Bill to amend and reenact §19-12E-3, §19-12E-4, §19-12E-5, §19-12E-6, §19-12E-7, §19-12E-8, and §19-12E-9 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto two new sections, designated §19-12E-10 and §19-12E-11, all relating generally to the Industrial Hemp Development Act; adding and modifying definitions; updating code to reflect changes in federal law; clarifying that no person may grow, cultivate, possess, or process industrial hemp without a license from the Department of Agriculture; requiring certain documentation requested by the commissioner to be submitted by licensees; authorizing commissioner to submit plan for state regulation of industrial hemp to United States Department of Agriculture; requiring licensee to provide prior written consent for law enforcement to enter the premises; providing that a license is not necessary to possess, handle, transport, or sell hemp products and extracts; setting standards regarding sale of industrial hemp products; requiring plan to comply with federal law; providing for continued legality of hemp production in absence of submitted plan; providing for handling negligent violations; addressing handling of non-negligent violations; requiring notification of attorney general and law enforcement under certain circumstances; and making technical corrections.

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

Eng. House Bill 3044, Requiring the Commissioner of Highways to develop a formula for allocating road funds.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3044) passed with its title.

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

Eng. House Bill 3020, Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

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

Pending discussion,

The question being “Shall Engrossed House Bill 3020 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Baldwin—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3020) passed.

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

Eng. House Bill 3020—A Bill to amend and reenact §18B-5-3 of the Code of West Virginia, 1931, as amended, relating to the authority of the Higher Education Policy Commission, the Council for Community and Technical College Education, and institutional governing boards to enter into contracts for financial services; and providing for specified flexibility entering into agreements with certain affiliated nonprofit corporations.

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 3024, West Virginia Business Ready Sites Program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3024) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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 H. B. 3024) takes effect from passage.

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

Eng. House Bill 2709, Relating to hunting licenses.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—26.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Romano, and Woelfel—8.

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. 2709) passed.

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

Eng. House Bill 2709—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-3, and §1-7-4; and to amend and reenact §20-2-27 of said code, all relating generally to protecting the right to privacy and association of the citizens of West Virginia; creating the Protect Our Right to Unite Act; declaring legislative purpose; defining terms; providing that no public agency may require nonprofit entities to disclose donor information, subject to certain exceptions; providing that where the state or a public agency obtains donor information it may not be released, subject to certain exceptions; providing exemption from Freedom of Information Act requests; providing for redaction of donor

information; providing exception for court orders; providing exception for discovery requests under certain conditions; providing civil remedies; providing for the payment of attorneys' fees and costs, and in certain circumstances, treble damages; and providing that the name, address, and other contact information of persons having obtained certain fishing and wildlife authorizations from the Division of Natural resources are exempt from the Freedom of Information Act.

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

On motion of Senator Takubo, at 12:17 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 1:12 p.m. and, at the request of Senator Lindsay, and by unanimous consent, returned to the second order of business and the introduction of guests.

At the request Senator Maynard, unanimous consent being granted, Senator Maynard announced a meeting of the committee of conference as to Engrossed Committee Substitute for Committee Substitute for Senate Bill 317 (*Authorizing three or more adjacent counties form multicounty trail network authority*).

Senator Sypolt announced a meeting of the committee of conference as to Engrossed Committee Substitute for Senate Bill 241 (*Permitting county court clerks scan certain documents in electronic form*).

The Senate again 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. Com. Sub. for Senate Bill 622, Relating generally to regulation and control of financing elections.

On motion of Senator Takubo, 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:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

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

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

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

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

(4) "Candidate" means an individual who:

(A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal charter;

(B) Has filed a declaration of candidacy under §3-5-23 of this code;

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

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

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

(6) "Caucus campaign committee" means a West Virginia House of Delegates or Senate political party caucus campaign committee that receives contributions and makes expenditures to support or oppose one or more specific candidates or slates of candidates for nomination, election, or committee membership.

~~(6)~~ (7) "Clearly identified" means that the name, nickname, photograph, drawing, or other depiction of the candidate appears or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the Governor", "your Senator", or "the incumbent", or through an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for Governor" or "the Republican candidate for Supreme Court of Appeals".

~~(7)~~ (8) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, ~~or~~ promise of money, or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election, or defeat of a candidate.

(A) A coordinated expenditure is a contribution for the purposes of this article.

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

(9) "Coordinated expenditure" is an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate's committee and meeting the criteria provided in §3-8-9a of this code.

~~(8)~~ (10) “Corporate political action committee” means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

~~(9)~~ (11) “Direct costs of purchasing, producing, or disseminating electioneering communications” means:

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

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

~~(40)~~ (12) “Disclosure date” means either of the following:

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

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

~~(44)~~ (13) “Election” means any primary, general, or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect candidates for public office. For purposes of this article, each primary, general, special, or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term “nomination” as used in this article.

~~(42)~~ (14) (A) “Electioneering communication” means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or ~~published~~ publication in any newspaper, magazine, or other periodical that:

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

(ii) Is publicly disseminated within:

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

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

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

(B) “Electioneering communication” does not include:

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

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

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

(ii) Activity by a candidate committee, party executive committee, ~~or a~~ caucus campaign committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee, ~~or~~ caucus committee, or a political action committee required to be reported pursuant to ~~§3-8-2(b)~~ §3-8-2 of this code are not exempt from the reporting requirements of this section;

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

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

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

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

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

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

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

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

Pro-Choice, “vote against Old Hickory”, “defeat” accompanied by a picture of one or more candidates, “reject the incumbent”;

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

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

~~(14)~~ (16) “Financial agent” means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(17) “Financial transactions” means all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election, or defeat of any candidate to be voted on.

(18) “Firewall” means a policy designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for a communication and those employees or consultants currently or previously providing services to a candidate, or to a committee supporting or opposing a candidate, clearly identified in the communication.

(19) “Foreign national” means the following:

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

(i) A government of a foreign country;

(ii) A foreign political party;

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

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

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

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

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

~~(15)~~ (20) “Fund-raising event” or “fundraiser” means an event such as a dinner, reception, testimonial, cocktail party, auction, or similar affair through which contributions are solicited or

received. ~~by such means as the purchase of a ticket, payment of an attendance fee, or by the purchase of goods or services.~~

(21) "In concert or cooperation with or at the request or suggestion of" means that a candidate or his or her agent consulted with:

(A) The sender regarding the content, timing, place, nature, or volume of a particular communication or communication to be made; or

(B) A person making an expenditure that would otherwise offset the necessity for an expenditure of the candidate or candidate's committee.

~~(16)~~ (22) "Independent expenditure" means an expenditure by a person:

(A) Expressly advocating the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party; and

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

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

(23) "Local" refers to the election of candidates to a city, county, or municipal office and any issue to be voted on by only the residents of a particular political subdivision.

~~(17)~~ (24) "Mass mailing" means a mailing by United States mail, facsimile, or electronic mail of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30 day period. For purposes of this subdivision, "substantially similar" includes communications that contain substantially the same template or language, but vary in nonmaterial respects such as communications customized by the recipient's name, occupation, or geographic location.

~~(18)~~ (25) "Membership organization" means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors, and the ability to hold office to its members and which uses a majority of its membership dues for purposes other than political purposes. "Membership organization" does not include organizations that grant membership upon receiving a contribution.

~~(19)~~ (26) "Name" means the full first name, middle name, or initial, if any, and full legal last name of an individual and the full name of any association, corporation, committee, or other organization of individuals, making the identity of any person who makes a contribution apparent by unambiguous reference.

~~(20)~~ (27) "Person" means an individual, corporation, partnership, committee, association, and any other organization or group of individuals.

~~(21)~~ (28) "Political action committee" means a committee organized by one or more persons, for the purpose of supporting or opposing the primary purpose of which is to support or oppose

the nomination or election of one or more candidates. The following are types of political action committees:

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

(B) A membership organization, as that term is defined by ~~subdivision (18) of~~ in this section; and

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

~~(22)~~ (29) "Political committee" means any candidate committee, political action committee, or political party committee.

~~(23)~~ (30) "Political party" means a political party as that term is defined by §3-1-8 of this code or any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof and including national or regional affiliates of the party.

~~(24)~~ (31) "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination, or defeat of a candidate in any election.

~~(25)~~ (32) "Political purposes" means supporting or opposing the nomination, election, or defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the debt of a candidate or political committee or the administration or activities of an established political party or an organization which has declared itself a political party, and determining the advisability of becoming a candidate under the precandidacy financing provisions of this chapter.

~~(26)~~ (33) "Targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by 140,000 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or more individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more individuals in the district in the case of a candidacy for the House of Delegates.

~~(27)~~ (34) "Telephone bank" means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions, or trained volunteers.

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

~~(29)~~ (35) "Unaffiliated political action committee" means a political action committee that is not affiliated with a corporation or a membership organization.

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

(a) ~~Except for: (1) Candidates for party committeeman and committeewoman; and (2) federal committees required to file under the provisions of 2 U.S.C. §434, all candidates for nomination or election and all persons supporting, aiding or opposing the nomination, election or defeat of~~

~~any candidate shall keep for a period of six months records of receipts and expenditures which are made for political purposes. All of the receipts and expenditures are subject to regulation by the provisions of this article. Verified financial statements of the records and expenditures shall be made and filed as public records by all candidates and by their financial agents, representatives or any person acting for and on behalf of any candidate and by the treasurers of all political party committees.~~

~~(b)(1)~~ (a) In addition to any other reporting required by the provisions of this chapter, any person who makes independent expenditures in an aggregate amount or value in excess of \$1,000 during a calendar year shall file a disclosure statement, according to the requirements of §3-8-5 of this code, on a form prescribed by the Secretary of State, that contains all of the following information:

(1) The name of (i) the person making the expenditure;

(ii) (2) The name of any person sharing or exercising direction or control over the activities of the person making the expenditure; ~~and~~

(iii) (3) The name of the custodian of the books and accounts of the person making the expenditure;

~~(B)~~ (4) If the person making the expenditure is ~~not an individual~~ an entity, the principal place of business of the partnership, corporation, committee, association, organization, or group which made the expenditure;

~~(C)~~ (5) The amount of each independent expenditure of ~~more than \$1,000 made~~ during the period covered by the statement and the name of the person to whom the expenditure was made;

~~(D)~~ (6) The elections to which the independent expenditure pertain, the names, if known, of the candidates referred to or to be referred to therein, whether the expenditure is intended to support or oppose the identified candidates, and the amount of the total expenditure reported pursuant to ~~paragraph (C)~~ subdivision (5) of this subsection spent to support or oppose each of the identified candidates;

~~(E)~~ (7) The name and address of any person who contributed a total of more than \$250 between the first day of the preceding calendar year, and the disclosure date, and whose contributions were made for the purpose of furthering the expenditure;

~~(F)~~ (8) With regard to the contributors required to be listed pursuant to ~~paragraph (E)~~ subsection (7) of this subdivision the statement shall also include:

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

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

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

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

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

~~(G)(1)~~ (9) A certification that such independent expenditure was not made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

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

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

~~(e)~~ (d)(1) ~~A person, including a political committee, who~~ Any person or political committee that makes or contracts to make independent expenditures aggregating ~~\$1,000~~ \$5,000 or more for any statewide, legislative, or multicounty judicial candidate or \$500 or more for any county office candidate, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the 15th day, but more than 12 hours, before the date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within 24 hours: *Provided*, That a person making expenditures ~~in the amount of \$1,000 or more~~ for any statewide or legislative candidate on or after the 15th day but more than 12 hours before the day of any election meeting the criteria of this section, but which are subject to the disclosure requirements of §3-8-2b of this code, shall report such expenditures in accordance with the requirements of §3-8-2b of this code and shall may not file ~~an additional report as provided herein~~ the report otherwise required by this subsection.

(2) Any person who files a report under subdivision (1) of this subsection, shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating ~~\$1,000~~ an additional \$5,000 or more for any statewide, legislative, or multicounty judicial candidate or an additional \$500 with respect to the same election, for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, as that to which the initial report relates.

~~(d)~~ (e) (1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating \$10,000 or more at any time, up to and including the 15th day before the date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within 48 hours.

(2) A Any person who files a report under subdivision (1) of this subsection ~~the person~~ shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.

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

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

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

~~(f)~~ (g) Any person who has spent a total of \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year shall maintain all financial records and receipts related to such expenditure for a period of ~~six months~~ five years following the filing of a disclosure pursuant to ~~subsection (a) of this section §3-8-2b of this code~~ and, upon request, shall make such records and receipts available to the Secretary of State or county clerk for the purpose of an audit as provided in §3-8-7 of this code.

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

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

(2) The Secretary of State shall make any document filed electronically, pursuant to this subsection, accessible to the public on the Internet not later than 24 hours after the document is received by the secretary.

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

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

~~(j)~~ (k) The Secretary of State may promulgate emergency and legislative rules, in accordance with the provisions of chapter 29A of this code, to establish guidelines for the administration of this section.

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

(a) No person may act as the treasurer of any political action committee or political party committee supporting, aiding or opposing the nomination, election, or defeat of any candidate for an office encompassing an election district larger than a county unless a written statement of organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State. ~~at least twenty-eight days before the election at which that person is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard time, of that day or, if mailed, is postmarked before that hour. The form shall include the name of the political committee; the name of the treasurer; the mailing address, telephone number and e-mail address;~~

~~if applicable, of the committee and of the treasurer if different from the committee information; the chairman of the committee; the affiliate organization, if any; type of committee affiliation, as defined in subdivisions (21) and (24), section one a of this article, if any; and whether the committee will participate in statewide, county or municipal elections. The form shall be certified as accurate and true and signed by the chairman and the treasurer of the committee *Provided*, That A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.~~

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

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

(d) ~~Prior to engaging in any activity, a political committee shall file a statement of organization required by subsection (a) of this section. A statement of organization form required by this section shall be certified as accurate and true and signed by the treasurer and the chairman of the committee, and shall include the following information:~~

(1) The name of the political committee;

(2) The name of the treasurer;

(3) The mailing address, telephone number, and e-mail address of the committee;

(4) The mailing address, telephone number, and e-mail address of the treasurer, if different from the committee information;

(5) The name of the chairman of the committee;

(6) The affiliate organization, if any;

(7) The type of political committee, as determined by the description of types of committees included in the definitions of "political committee" and "political action committee" in §3-8-1a of this code; and

(8) Whether the committee will participate in statewide or local elections.

~~(d) (e)~~ Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a filing designating a treasurer for a state, ~~or county,~~ or municipal political ~~executive~~ committee may be made any time before the committee either accepts or spends funds. Once a designation is made by a state, ~~or county,~~ or municipal political ~~executive~~ committee, no additional designations are required under this section until a successor treasurer is designated.

~~(f)~~ A state, ~~or county,~~ or municipal political ~~executive~~ committee may terminate a designation made pursuant to this section by making a written request to terminate the designation on a form prescribed by the Secretary of State and by stating in the request filing a report of financial information required in §3-8-5 of this code, indicating that the political committee has no funds or debts remaining in the committee's account. This written request shall be filed with either the Secretary of State or the clerk of the county commission as provided by subsections (a), (b), and (c) of this section.

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

(a) Record-keeping requirements. —

(1) Except for candidates for party committeeman and committeewoman, all candidates for nomination or election to state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of two years, records of receipts and expenditures which are made for political purposes.

~~(2) Every candidate, or treasurer, person and association of persons, organization of any kind, including every corporation, directly, or by an independent expenditure, supporting a political committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of this article or engaging in other activities permitted by this section and also including the treasurer or equivalent officer of the association or organization, expressly advocating the election or defeat of a clearly identified candidate for state, district, county or municipal office, and the treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, or liabilities incurred, by the candidate, financial agent, person, association or organization or political committee, for political purposes, or by any of the officers or members of the committee, or any person acting under its authority or on its behalf.~~

(3) A person that is not a political committee and makes independent expenditures or electioneering communications must keep detailed accounts of every sum of money or other thing of value received by him or her for the purpose of furthering any independent expenditure or electioneering communication and of all disbursements made for independent expenditures or electioneering communications.

(b) Financial reporting requirements. —

~~(1) Every person or association of persons required to keep detailed accounts under this section shall file with the officers hereinafter prescribed a detailed itemized sworn statement:~~

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

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

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

~~(4) Of all financial transactions, whenever the total exceeds \$500 or whenever any loans are outstanding, which have taken place before the forty-third day preceding the general election day, to be filed within four business days after the forty-third day. required to keep detailed accounts under subsection (a) of this section shall file a detailed, itemized sworn statement, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:~~

~~(A) On April 1 of each year, the person shall file a statement of all financial transactions dating from January 1 to March 31 of the same year, to be filed within six days thereafter;~~

~~(B) On July 1 of each year, the person shall file a statement of all financial transactions dating from April 1 to June 30 of the same year, to be filed within six days thereafter;~~

~~(C) On October 1 of each year, the person shall file a statement of all financial transactions dating from July 1 to September 30 of the same year, to be filed within six days thereafter; and~~

~~(D) On January 1 of each year, the person shall file a statement of all financial transactions dating from October 1 to December 31 of the previous year, to be filed within six days thereafter.~~

~~(2) In addition to the statements required in subdivision (1) of this section, a candidate or candidate's committee shall file detailed itemized sworn statements, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:~~

~~(A) On the 15th day preceding the primary election in which a candidate is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the previous statement, if any, to be filed within four business days after the 15th day; and~~

~~(B) On the 15th day preceding the general election in which a candidate, including an official write-in candidate, is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the previous statement, if any, to be filed within four business days after the 15th day.~~

~~(c) A person required to file reports pursuant to 52 U.S.C. §30104 is exempt from the requirements of subsection (b) of this section but is not exempt from the state-level electioneering communication reports requirements in §3-8-2b of this code or the independent expenditure reporting requirements in §3-8-2 of this code.~~

~~(d) Every person who announces as a is qualified as an official write-in candidate for any elective office and his or her financial agent or election organization of any kind shall individually, or by candidate committee, comply with all of the applicable requirements of this section after public announcement of the person's candidacy has been made.~~

~~(d) For purposes of this section, the term "financial transactions" includes all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of~~

~~any person by any candidate or any organization advocating or opposing the nomination, election or defeat of any candidate to be voted on.~~

(e) Candidates for the office of conservation district supervisor elected pursuant to the provisions of ~~article twenty-one a, chapter nineteen~~ §19-21A-1 et seq. of this code are required to file only the reports required by ~~subdivisions (2) and (3), paragraph (A), subdivision (2), subsection (b) of this section immediately prior to and after the primary election: *Provided*, That during the election in the year 2008, the statements required by this subsection shall be filed immediately prior to and after the~~ applicable general election that is held concurrently with the state's primary election.

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

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

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

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

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

~~(b) The statements may be filed by mail, in person, or by facsimile or other electronic means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, and Supreme Court of Appeals, shall be filed electronically by the means of an Internet program that has been established by the Secretary of State on forms or in a format prescribed by the Secretary of State: *Provided*, That after January 1, 2018, unless a committee has been granted an exemption in case of hardship pursuant to subsection (c) of this section, all such statements required to be filed with the Secretary of State, on or behalf of a candidate for any elective office, shall be filed electronically by means of the internet program that has been established by the Secretary of State.~~

(1) The following statements or reports shall be filed electronically, in a manner prescribed by the Secretary of State:

(A) Financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, State Senate, House of Delegates, Supreme Court of Appeals, circuit judge, or family court judge;

(B) Financial statements filed by political committees;

(C) Electioneering communication reports; and

(D) Independent expenditure reports.

(2) If through or by no fault of the candidate, the candidate is unable to file the campaign financial statement, the candidate shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity.

(e) (3) Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

(c) Candidates for all offices not identified in subsection (b) of this section, may file financial statements by mail, in person, by facsimile, or by other electronic means of transmission. For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State, or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of that office.

(e) (d) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the Internet by the Secretary of State within 10 business days from the date the financial statement is filed.

§3-8-5c. Contribution limitations.

(a) (1) A person, political party, or political action committee may not, in an election cycle:

(A) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking nomination, including by making contributions to the candidate's committee; or

(B) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking election, including by making contributions to the candidate's committee: *Provided*, That a candidate may receive contributions for the general election prior to nomination, however, such funds may not be expended until after the date of the nomination is declared.

(2) The contribution limits of this section apply only to elections to be held after the effective date of this section, and do not apply to candidate committees that were created for elections held prior to the effective date of this section.

(b) A person may not, directly or indirectly, make contributions to a state party executive committee, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee which, in the aggregate, exceed \$10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise designate any portion of a contribution made pursuant to this subsection to be used to support or oppose the election of a particular candidate: *Provided, however*, That any such designation or earmark that accompanies a contribution made pursuant to this subsection may not be binding on the entity that receives the contribution.

(c) A person may not, directly or indirectly, make contributions to a political action committee, related to a particular election, which, in the aggregate, exceed \$5,000.

§3-8-5e. Precandidacy financing and expenditures.

(a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise qualified to be a candidate for any public office or position to be determined by public election, to receive contributions or make expenditures, or both personally or by another individual acting as a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a candidate: *Provided*, That such contributions may be received and such expenditures made only during the four years immediately preceding the term for which such person may be a candidate or during the term of office immediately preceding the term for which such person may be a candidate, whichever is less: *Provided, however*, That no person is disqualified from receiving contributions or making expenditures as permitted under the provisions of this section solely because such person then holds a public office or position.

(b) Any person undertaking to determine the advisability of becoming or preparing to be a candidate, who desires to receive contributions before filing a certificate of candidacy, ~~shall name~~ shall designate himself or another individual to act as a treasurer and shall file a designation of treasurer in the manner provided in §3-8-4 of this code before receiving any contributions permitted by this section. Any expenditures made before the filing of a designation of treasurer shall be reported in accordance with the provisions of ~~this section~~ §3-8-5 of this code, regardless of the source of funds used for such expenditures.

(c) A person who receives a contribution who is acting for and by himself or herself or as treasurer or agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum of money or other thing of value received by him or her, and of all expenditures and disbursements made, and liabilities incurred, in the same manner as such accounts are required by §3-8-5 of this code. ~~for the period prior to the date of filing for candidacy for the office he is considering seeking. Any person who has received contributions or made expenditures subject to the provisions of this section shall file annually on the last Saturday in March or within six days thereafter preceding the election at which the names of candidates would appear on the ballot for the public office or position which the person originally considered seeking, a detailed itemized statement setting forth all contributions received and expenditures made pursuant to the provisions of this section concerning the candidacy of that person. If the person on whose behalf such contributions are received or expenditures are made becomes a candidate for any office or position to be decided at such election then the itemized statement shall be included within the first statement required to be filed by the provisions of section five of this article. If such person does not become a candidate for any office or position to be decided at such election, then the detailed itemized statements required by this subsection shall be the only statements required to be filed by such person.~~

(d) Regardless of whether such person becomes a candidate as originally intended, ~~or~~ becomes a candidate for some office other than the office or position originally intended, or does not become a candidate, all limits on campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of the candidacy of such person for the office he or she actually seeks, shall be applicable to and inclusive of the receipts had and expenditures made during such precandidacy period as well as after the person becomes a candidate.

§3-8-5g. Prohibition on political contributions and expenditures by foreign nationals.

(a) A foreign national may not, directly or indirectly, make:

(1) A contribution or donation, or an express or implied promise to make a contribution or donation, to a candidate's committee, a political committee, or a political party; or

(2) An independent expenditure or any disbursement for an electioneering communication related to a state or local election.

(b) A person may not solicit, accept, or receive a contribution or donation described in subsection (a) of this section.

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

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

(b) (1) Any person, candidate, financial agent, or treasurer of a political party committee who fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete or grossly inaccurate statement ~~may~~ shall be assessed a civil penalty by the Secretary of State of ~~\$25~~ \$10 a day for each day after the due date the statement is delinquent, grossly incomplete, or grossly inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete, or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political party committee and forward copies of such delinquent, incomplete, or inaccurate statements to the Secretary of State.

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

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

(4) The Secretary of State shall publish online, a list of all persons required to file statements with the Secretary of State who file statements after the deadline in an election cycle. This list shall be maintained and be publicly available online to include late activity for, at a minimum, the previous five years up to the current year.

~~(4)~~ (5) The Secretary of State and county clerk may review and audit any sworn statement required to be filed pursuant to this article. The State Election Commission shall propose legislative rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code, to establish procedures for the assessment of civil penalties as provided in this section.

(c) (1) Any candidate, whether nominated by primary election or appointed by executive committee or executive committee chair, who has failed to file any sworn statement as required by this article, relating to the immediately preceding primary election for any office by the 84th day

before the general election, is disqualified and may not have his or her name appear on the general election ballot. The provisions of §3-8-5b(d) of this code notwithstanding, any sworn statement filed after the deadline required by §3-8-5 of this code must be received in the office indicated by §3-8-5b(a) of this code by the close of business on the 84th day before the general election.

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

(3) The vacancy on the ballot created by the disqualification in this subsection is subject to §3-5-19 of this code.

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

(e) The Secretary of State shall provide by rule protocols for written notice via certified mail, return receipt requested, to the person, candidate, financial agent, or treasurer of a political party committee that is not in compliance with the requirements of this section. With respect to a violation of subsection (c) of this section, the notice shall be provided 60 days after any primary or other election.

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

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

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

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

(2) It is unlawful for:

(A) A membership organization, corporation, or separate segregated fund to make a primary or other election contribution or expenditure by using money or anything of value secured: (i) By

physical force, job discrimination, or financial reprisal; (ii) by the threat of force, job discrimination, or financial reprisal; or (iii) as a condition of employment;

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

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

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

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

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

(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of ~~\$1,000~~ the amounts permitted in §3-8-5c of this code in connection with or on behalf of any campaign for nomination or election to any elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any such office; or

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

(3) For the purposes of this section, the term "executive or administrative personnel" means individuals employed by a membership organization or corporation who are paid on a salary rather

than hourly basis and who have policy-making, managerial, professional, or supervisory responsibilities.

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

(e) To ensure uniform administration and application of the provisions of this section and of those of the Federal Election Campaign Act Amendments of 1976 relating to membership organization and corporate contributions, the State Election Commission shall propose rules for legislative approval in accordance with ~~the provisions of §29A-3-1 et seq.~~ of this code, to implement the provisions of this section consistent, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission to carry out similar or identical provisions of ~~2 U.S.C. §441b~~ 52 U.S.C. §30118.

(f) In addition to the powers and duties set forth in §3-1A-1 et seq. of this code, the State Election Commission has the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation and evaluation of information reflecting public opinion, needs, and preferences as to any candidate, group of candidates, party, issue, or issues. No such poll ~~shall~~ may be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition, or other matter to be voted

on by the public at any election: *Provided*, That nothing herein shall ~~may~~ prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;

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

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

(13) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within 30 days thereafter;

(14) For the payment of dues or subscriptions to any national, state, or local committee of any political party;

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

(16) For transfers to any national, state, or local committee of any political party when that committee is acting in the role of a vendor: *Provided*, That no such transfer may involve any coordination between the candidate and the political party committee without being considered as a contribution;

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

(18) For payment for food and drink for campaign-related purposes;

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

~~(16)~~ (20) For contributions to a candidate committee: *Provided*, That a candidate committee may not contribute to another candidate committee except as otherwise provided by §3-8-10 of this code.

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

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

(d) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by §3-8-5a of this code, the financial statements required by §3-8-5 of this code at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent, or treasurer of a political party committee.

(e) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~ the candidate which shall be in such form and filed in accordance with ~~the provisions of §3-8-4~~ of this code.

§3-8-9a. Coordinated expenditures.

(a) Except as provided in §3-8-9b of this code, a coordinated expenditure is considered to be a contribution and is subject to all requirements for contributions contained in this article.

(b) An expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate's committee is a coordinated expenditure if the communication resulting from the expenditure is paid for, in whole or in part, by a person other than the candidate, candidate committee, or party committee, and one of the following circumstances exists:

(1) The communication is created, produced, distributed, or undertaken at the request or suggestion of a candidate, candidate committee, or party committee.

(2) The candidate, candidate committee, or party committee is involved in the creation, production, or distribution of the communication, or has had discussions about the communication with any person or the agents of a person who has paid for or played a role in the creation, production, or distribution of the communication: *Provided*, That this paragraph does not apply if the information or materials used in the creation, production, distribution, or undertaking of the communication was obtained from a publicly available source.

(3) Any person involved in the creation, production, or distribution of the communication has, in the four months preceding the date on which the expenditure is made, been an employee or vendor of campaign services for the candidate, candidate committee, or party committee.

(c) An expenditure is not a coordinated expenditure, based solely on any of the following circumstances:

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

(2) A candidate endorses another candidate;

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

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

(d)(1) An expenditure otherwise meeting the description of a coordinated expenditure contained in subdivision (3), subsection (b) of this section, is not a coordinated expenditure if the commercial vendor, former employee, or political committee at issue has established and implemented a firewall that meets the following requirements:

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

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

(2) A communication does not qualify for the exemption contained in this subsection if, despite the firewall, information subject to the firewall concerning a candidate, candidate's committees, or a party committee's campaign plans, projects, activities, or needs that are material to the creation, production, or distribution of the communication is used or conveyed to the person paying for the communication.

(e) Any communication that results from a coordinated expenditure must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate, the candidate committee, or the party committee with which it was coordinated.

§3-8-9b. Coordinated expenditures by political party committees and political party caucuses in connection with certain statewide candidates.

(a) Notwithstanding the provisions of §3-8-9a of this code, the state committee of a political party and caucus campaign committee may make coordinated expenditures in an amount not to exceed \$5,000 in connection with the general election campaign of the candidate for each of the following offices: Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates.

(b) Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.

§3-8-9c. Joint fundraising.

(a) Political committees may engage in joint fundraising efforts with other political committees or with committees registered with the Federal Election Commission pursuant to a written joint fundraising agreement.

(b) A written joint fundraising agreement must be filed with the Secretary of State and must provide terms for the allocation of fundraising proceeds between or among political committees engaging in the joint fundraising effort. The Secretary of State shall post all joint fundraising agreements on the Internet within 10 business days from the date the agreement is filed.

(c) Any person soliciting funds for a joint fundraising effort shall disclose, in making or publishing solicitations, the name of all political committees involved in the joint fundraising effort and how any proceeds, including any contributions, will be allocated between or among such committees.

(d) A person, not otherwise prohibited by this article from making contributions, may make a contribution to a joint fundraising effort subject to the contribution limits in §3-8-5c of this code.

(e) The State Election Commission shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code, to provide requirements for written joint fundraising agreements and to implement the provisions of this section consistently, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission in 11 C.F.R. §102.17.

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

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

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

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

(d) Except as provided in §3-8-8 of this code, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land, or buildings, directly or indirectly, make any contribution to any political party, committee, or candidate for public office, or to any person for political purposes or use nor may any person or firm solicit any contributions for any purpose during any period.

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

(f) ~~Except as provided in §3-8-8 of this code,~~ A person may not, directly or indirectly, make any contribution in excess of the ~~value of \$1,000~~ amounts permitted by §3-8-5c of this code, in

connection with any campaign for nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any of the offices.

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

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

~~(i) (h) Notwithstanding the provisions of subsection (f) of this section to the contrary, A person may not, directly or indirectly, make contributions to a state party executive committee or state party legislative caucus campaign committee which, in the aggregate, exceed the value of \$1,000 in any calendar year are in excess of the amounts permitted by §3-8-5c of this code in any calendar year.~~

~~(j) (i) The limitations on contributions contained in this section do not apply to transfers between and among a state party executive committee, or a state party's legislative a caucus political campaign committee, from and a national committees of the same political party: Provided, That transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any calendar year to any state party executive committee or state party legislative caucus political committee: Provided, however, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.~~

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

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

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

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

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

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

On motion of Senator Takubo, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 622) was reported by the Clerk and adopted:

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

Eng. Com. Sub. for Senate Bill 622—A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-4, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto five new sections, designated §3-8-5c, §3-8-5g, §3-8-9a, §3-8-9b, and §3-8-9c, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying requirements for information to be included in independent expenditure reports; providing that persons or committees required to file federal expenditure reports are not exempt from requirement to file state-level expenditure and electioneering disclosure reports; raising the threshold amounts for required disclosure of independent expenditures occurring within a certain time frame preceding elections; requiring electronic filing of certain financial disclosure statements; requiring that certain records and receipts related to expenditures for electioneering communications be maintained for five years; removing the deadline before an election for a political action committee or political party committee to file a statement of organization; clarifying that a political committee must file a statement of organization before engaging in any activity; specifying information to be included in a statement of organization; modifying record-keeping requirements for certain receipts and expenditures made for political purposes and requiring that records be maintained for a period of two years; modifying deadlines for financial disclosure reports; providing that candidates for certain offices must file financial disclosure statements electronically and candidates for other offices may file by mail, facsimile, or electronic means; modifying limits on contributions to candidates and candidate committees; modifying limits on contributions to state party executive committees and legislative caucus campaign committees; modifying limits on contributions to political action committees; providing that precandidates may accept contributions for a general election campaign prior to nomination, but may not expend such funds until after nomination is declared; providing that persons receiving precandidacy contributions are subject to certain expenditure reporting requirements; prohibiting foreign nationals from making contributions or

donations to candidates, committees, and parties, and prohibiting receipt of a contribution or donation by a foreign national; modifying daily rate of civil penalty for persons filing late, inaccurate, or incomplete financial statements and making such penalty mandatory; requiring the Secretary of State to publish an online list of persons filing late financial statements; providing that membership organizations are subject to certain limitations applying to corporate contributions and solicitation of contributions by corporations; adding certain expenses to the list of permissible expenses of political committees; providing that coordinated expenditures are treated as contributions; providing criteria for whether an expenditure is coordinated and exceptions thereto; permitting political party committees and legislative caucus campaign committees to make coordinated expenditures up to certain limits in connection with certain state-level candidates; permitting political committees to engage in joint fundraising efforts pursuant to a written agreement filed with the Secretary of State subject to certain requirements; requiring the State Election Commission to promulgate legislative rules pertaining to joint fundraising efforts; permitting unlimited transfers of money between and among state party executive committees, legislative caucus campaign committees, and national committees of the same political party for voter registration and get-out-the-vote initiatives; providing that prohibition against intimidating or coercing certain government employees into engaging in political activity also extends to intimidating or coercing employees into refraining from political activity; eliminating prohibition on a political organization organized under Section 527 of the Internal Revenue Code from soliciting or accepting donations before registering with the Secretary of State; providing that it is unlawful for any person to establish more than one political committee with the intent to evade contribution limitations; and deleting obsolete language.

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

Engrossed Committee Substitute for Senate Bill 622, as amended, was then put upon its passage.

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

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, 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 S. B. 622) 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 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 Com. Sub. for Senate Bill 632, Improving student safety.

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

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

On page one, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

§18-5-48. Safety and security measures for school facilities; Safe Schools Fund created.;

On page two, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

§18-20-11. Video cameras required in certain special education classrooms.;

On page two, section eleven, line three, by striking out the word "A" and inserting in lieu thereof the words "Upon appropriation of funds by the Legislature, a";

On page five, section eleven, lines seventy-two and seventy-three, by striking out all of subdivision (2);

And by renumbering the remaining subdivisions;

On page seven, section eleven, lines one hundred nine through one hundred twelve, by striking out all of subsection (q) and inserting in lieu thereof a new subsection, designated subsection (q), to read as follows:

(q) (1) A public school or school district may use funds distributed from the Safe Schools Fund created in §18-5-48 of this code to meet the requirements of this section.

(2) A public school or school district may accept gifts, grants, or donations to meet the requirements of this section.;

On page eight, by striking out all section six and inserting in lieu thereof a new section, designated section six, to read as follows:

§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.

(a) The state superintendent may, after 10 days' notice and upon proper evidence, revoke the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board that employs the teacher, nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to teach: *Provided, however*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials

and make recommendations for action by the state superintendent: *Provided further*, That a teacher, as defined by West Virginia Code §18-1-1(g), convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any criminal offense that requires the teacher to register as a sex offender, or any criminal offense which has as an element delivery or distribution of a controlled substance, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher's certification shall be reinstated unless otherwise prohibited by law.

(b) It shall be the duty of Any county superintendent who knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with this section to shall report the same this, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(c) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent has authority to may recall the certificate and make such corrections as will conform to the requirements of law and the state board.;

And,

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

Eng. Com. Sub. for Senate Bill 632—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new section, designated §18-20-11; to amend and reenact §18A-2-8 of said code; and to amend and reenact §18A-3-6 of said code, all relating to improving student safety; requiring safety and security measures of each school facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of students; creating Safe Schools Fund and providing for distribution of funds subject to appropriation; requiring video cameras capable of audio recording in certain public special education classrooms upon appropriation of funds; prohibited monitoring in certain areas; providing for notice of placement; setting requirements video retention and access; immunity from liability not waived and liability not created; limitations on use of video; protection of confidentiality and identity of students not involved in incident; allowing appeals to state board; permitting funding from Safe School Fund and gifts, grants or donations; authorizing state board rule; adding to justifications for which a school employee may be suspended or dismissed; providing duty and authority to provide safe and secure environment; requiring reports on suspensions and dismissals of employees and database maintained by state superintendent of individuals suspended or dismissed for certain reasons; and adding to justifications for which a teacher's certificate shall be automatically and reinstated should conviction be overturned.

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 632) were reported by the Clerk, considered simultaneously, and adopted:

On page five, section eleven, subsection (k), by inserting a new subdivision, designated subdivision (2), to read as follows:

“(2) A parent or legal guardian of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district;”;

And by renumbering the remaining subdivisions;

On page eight, section eight, after subsection (e), by striking out the remainder of the bill;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 632—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new section, designated §18-20-11; and to amend and reenact §18A-2-8 of said code, all relating to improving student safety; requiring safety and security measures of each school facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of students; creating Safe Schools Fund and providing for distribution of funds subject to appropriation; requiring video cameras capable of audio recording in certain public special education classrooms upon appropriation of funds; designating principal as the custodian; requiring written explanation if there is an interruption in the operation of the video camera; setting forth required capabilities of the video camera; prohibited monitoring in certain areas; allowing video camera to not be in operation when students not present; providing for notice of placement; setting forth video retention and access requirements; providing that immunity from liability not waived and liability not created; providing limitations on use of video; providing for protection of confidentiality and identity of students not involved in incident; allowing appeals to state board; permitting funding from Safe School Fund and gifts, grants or donations; authorizing state board rule; adding to justifications for which a school employee may be suspended or dismissed; providing duty and authority to provide safe and secure environment; requiring reports on suspensions and dismissals of employees and database maintained by state superintendent of individuals suspended or dismissed for certain reasons.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 632, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Facemire, Lindsay, Romano, and Stollings—4.

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. 632) passed with its Senate amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso,

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

The nays were: Facemire, Lindsay, Romano, and Stollings—4.

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 Com. Sub. for S. B. 632) takes effect July 1, 2019.

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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 665, Allowing for expedited oil and gas well permitting.

On motion of Senator Takubo, 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:

ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.

§22-6A-7. Horizontal well permit required; permit fee; application; soil erosion control plan; well site safety plan; site construction plan; water management plan; permit fee; installation of permit number; suspension and transfer of a permit.

(a) It is unlawful for any person to commence any well work, including site preparation work which involves any disturbance of land, for a horizontal well without first securing from the secretary a well work permit pursuant to this article.

(b) Every permit application filed under this section shall be on a form as may be prescribed by the secretary, shall be verified, and shall contain the following information:

(1) The names and addresses of: (A) The well operator; (B) the agent required to be designated under subsection (k) of this section; and (C) every person whom the applicant shall notify under any section of this article, together with a certification and evidence that a copy of the application and all other required documentation has been delivered to all such persons;

(2) The names and addresses of every coal operator operating coal seams under the tract of land on which the well is or may be located, and the coal seam owner of record and lessee of record required to be given notice by §22-6A-5(a)(6) of this code, if any, if the owner or lessee is not yet operating the coal seams;

(3) The number of the well or other identification the secretary may require;

(4) The well work for which a permit is requested;

(5) The approximate total depth to which the well is to be drilled or deepened, or the actual depth if the well has been drilled; the proposed angle and direction of the well; the actual depth or the approximate depth at which the well to be drilled deviates from vertical, the angle, and direction of the nonvertical well bore until the well reaches its total target depth or its actual final depth; and the length and direction of any actual or proposed horizontal lateral or well bore;

(6) Each formation in which the well will be completed if applicable;

(7) A description of any means used to stimulate the well;

(8) If the proposed well work will require casing or tubing to be set, the entire casing program for the well, including the size of each string of pipe, the starting point and depth to which each string is to be set and the extent to which each such string is to be cemented;

(9) If the proposed well work is to convert an existing well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(10) If the proposed well work is to plug or replug the well, all information necessary to demonstrate compliance with the legislative rules promulgated by the secretary in accordance with §22-6A-13 of this code;

(11) If the proposed well work is to stimulate a horizontal well, all information necessary to demonstrate compliance with the requirements of §22-6A-5(a)(7) of this code;

(12) The erosion and sediment control plan required under subsection (c) of this section for applications for permits to drill;

(13) A well site safety plan to address proper safety measures to be employed for the protection of persons on the site as well as the general public. The plan shall encompass all aspects of the operation, including the actual well work for which the permit was obtained, completion activities and production activities, and shall provide an emergency point of contact for the well operator. The well operator shall provide a copy of the well site safety plan to the local emergency planning committee established pursuant to §15-5A-7 of this code for the emergency planning district in which the well work will occur at least seven days before commencement of well work or site preparation work that involves any disturbance of land;

(14) A certification from the operator that: (A) It has provided the owners of the surface described in §22-6A-10(b)(1), §22-6A-10(b)(2), and §22-6A-10(b)(4) of this code, the information required by §22-6A-16(b) and §22-6A-16(c) of this code; (B) that the requirement was deemed satisfied as a result of giving the surface owner notice of entry to survey pursuant to §22-6A-10(a) of this code; or (C) the notice requirements of §22-6A-16(b) of this code were waived in writing by the surface owner; and

(15) Any other relevant information which the secretary may reasonably require.

(c)(1) An erosion and sediment control plan shall accompany each application for a well work permit under this article. The plan shall contain methods of stabilization and drainage, including a map of the project area indicating the amount of acreage disturbed. The erosion and sediment control plan shall meet the minimum requirements of the West Virginia Erosion and Sediment Control Manual as adopted and from time to time amended by the department. The erosion and

sediment control plan shall become part of the terms and conditions of any well work permit that is issued pursuant to this article and the provisions of the plan shall be carried out where applicable in the operation. The erosion and sediment control plan shall set out the proposed method of reclamation which shall comply with the requirements of §22-6A-14 of this code.

(2) For well sites that disturb three acres or more of surface, excluding pipelines, gathering lines and roads, the erosion and sediment control plan submitted in accordance with this section shall be certified by a registered professional engineer.

(d) For well sites that disturb three acres or more of surface, excluding pipelines, gathering lines and roads, the operator shall submit a site construction plan that shall be certified by a registered professional engineer and contains information that the secretary may require by rule.

(e) In addition to the other requirements of this section, if the drilling, fracturing, or stimulating of the horizontal well requires the use of water obtained by withdrawals from waters of this state in amounts that exceed 210,000 gallons during any 30-day period, the application for a well work permit shall include a water management plan, which may be submitted on an individual well basis or on a watershed basis, and which shall include the following information:

(1) The type of water source, such as surface or groundwater, the county of each source to be used by the operation for water withdrawals and the latitude and longitude of each anticipated withdrawal location;

(2) The anticipated volume of each water withdrawal;

(3) The anticipated months when water withdrawals will be made;

(4) The planned management and disposition of wastewater after completion from fracturing, refracturing, stimulation, and production activities;

(5) A listing of the anticipated additives that may be used in water utilized for fracturing or stimulating the well. Upon well completion, a listing of the additives that were actually used in the fracturing or stimulating of the well shall be submitted as part of the completion log or report required by §22-6A-5(a)(14) of this code;

(6) For all surface water withdrawals, a water management plan that includes the information requested in subdivisions (1) through (5) of this subsection and the following:

(A) Identification of the current designated and existing water uses, including any public water intakes within one mile downstream of the withdrawal location;

(B) For surface waters, a demonstration, using methods acceptable to the secretary, that sufficient in-stream flow will be available immediately downstream of the point of withdrawal. A sufficient in-stream flow is maintained when a pass-by flow that is protective of the identified use of the stream is preserved immediately downstream of the point of withdrawal; and

(C) Methods to be used for surface water withdrawal to minimize adverse impact to aquatic life; and

(7) This subsection is intended to be consistent with and does not supersede, revise, repeal, or otherwise modify §22-11-1 *et seq.*, §22-12-1 *et seq.*, or §22-26-1 *et seq.* of this code and does

not revise, repeal, or otherwise modify the common law doctrine of riparian rights in West Virginia law.

(f) An application may propose and a permit may approve two or more activities defined as well work; however, a separate permit shall be obtained for each horizontal well drilled.

(g) The application for a permit under this section shall be accompanied by the applicable bond as required by §22-6A-15 of this code, the applicable plat required by §22-6A-5(a)(6) of this code, and a permit fee of \$10,000 for the initial horizontal well drilled at a location and a permit fee of \$5,000 for each additional horizontal well drilled on a single well pad at the same location.

(h)(1) An applicant may enter into an expedited permit application process with the secretary for a well permit and pay an additional expedited permit fee of \$10,000 for the initial horizontal well drilled at a location and an additional expedited permit fee of \$5,000 for each additional horizontal well drilled on a single well pad at the same location; *Provided*, That deep well permitting is excluded from this expedited permit process due to the independent board review and approval requirement which is outside the secretary's control.

(2) Upon entering into an expedited permit process and meeting all the criteria set forth in this article, the secretary shall issue or deny a permit within 45 days of the submission of a permit application under this article, unless the secretary seeks additional information or modification from the applicant, which would toll the 45 day period until the secretary receives the required responsive information from the applicant.

(3) Each day the agency exceeds: (A) The 45-day deadline for approval or denial of an expedited initial horizontal well drilled, the secretary shall refund \$666.66 per day up to and including day 60 after the submission of a permit application until the expedited fee is reduced to the normal permit fee amount; or (B) the 45-day deadline for approval or denial of an expedited permit for any additional horizontal well drilled on a single well pad at the same location, the secretary shall be required to refund \$333.33 per day up to and including day 60 after the submission of a permit application, until the expedited fee is reduced to the normal permit fee amount.

(4)(A) After all refunds are paid by the secretary, one half of the additional expedited permit fee shall be deposited in the Oil and Gas Operating Permit and Processing Fund and shall be used by the agency to cover costs to review, process, and approve or deny the applicable horizontal well permit applications and modifications pending before the agency, but not to exceed \$1,000,000 annually in combination with proceeds received through §22-6A-7(i)(4)(A) of this code and any residuary fee proceeds to be distributed as set forth in §22-6A-7(h)(4)(B) of this code.

(B) After all refunds are paid by the secretary, one half of the additional expedited permit fee, plus any residuary as set forth in §22-6A-7(h)(4)(A) of this code, shall be deposited in the Oil and Gas Reclamation Fund and used specifically for the reclamation and plugging of orphaned oil or gas wells.

(i)(1) An applicant may enter into an expedited permit modification application process with the secretary for a well permit and pay an expedited permit modification fee of \$5,000 for the modification of the permit for any horizontal well drilled at a location. *Provided*, That deep well permit modifications are excluded from this expedited permit modification process if the modification is subject to independent board review and approval.

(2) Upon entering into an expedited permit modification process and meeting all the criteria set forth in this article, the secretary shall issue or deny a permit modification within 20 days of the submission of a permit modification application under this article, unless the secretary seeks additional information or further modification from the applicant, which would toll the 20 day period until the secretary receives the required responsive information from the applicant.

(3) Each day the agency exceeds the 20-day deadline for approval or denial of an expedited horizontal well permit modification, the secretary shall refund \$500 per day up to and including day 30 after the submission of an expedited permit modification application, until the expedited permit modification fee of \$5,000 is reduced to zero.

(4)(A) After all refunds are paid by the secretary, one half of the expedited permit modification fee shall be deposited in the Oil and Gas Operating Permit and Processing Fund and shall be used by the agency to cover costs to review, process, and approve or deny the applicable horizontal well permit applications and modifications pending before the agency, but not to exceed \$1,000,000 annually in combination with proceeds received through §22-6A-7(h)(4)(A) of this code and any residuary fee proceeds to be distributed as set forth in §22-6A-7(i)(4)(B) of this code.

(B) After all refunds are paid by the secretary, one half of the expedited permit modification fee, plus any residuary as set forth in §22-6A-7(i)(4)(A) of this code, shall be deposited in the Oil and Gas Reclamation Fund and used specifically for the reclamation and plugging of orphaned oil or gas wells.

(j) Any balance in the Oil and Gas Reclamation Fund, earmarked specifically for the reclamation and plugging of orphaned oil or gas wells pursuant to §22-6A-7(h)(4)(B) and §22-6A-7(i)(4)(B) of this code, which remains at the end of any state fiscal year does not revert to the General Revenue Fund but shall remain in the special revenue account as indicated and may be used only as provided in §22-6-29(b) of this code. The revenues deposited in the Oil and Gas Reclamation Fund, earmarked specifically for the reclamation and plugging of orphaned oil or gas wells pursuant to §22-6A-7(h)(4)(B) and §22-6A-7(i)(4)(B) of this code may not be designated as nonaligned state special revenue funds under §11B-2-32 of this code.

~~(h)~~ (k) The well operator named in the application shall designate the name and address of an agent for the operator who is the attorney-in-fact for the operator and who is a resident of the State of West Virginia upon whom notices, orders, or other communications issued pursuant to this article or §22-11-1 et seq. of this code may be served, and upon whom process may be served. Every well operator required to designate an agent under this section shall, within five days after the termination of the designation, notify the secretary of the termination and designate a new agent.

~~(i)~~ (l) The well owner or operator shall install the permit number as issued by the secretary and a contact telephone number for the operator in a legible and permanent manner to the well upon completion of any permitted work. The dimensions, specifications, and manner of installation shall be in accordance with the rules of the secretary.

~~(j)~~ (m) The secretary may waive the requirements of this section and §22-6A-8, §22-6A-10, §22-6A-11, and §22-6A-24 of this code in any emergency situation if the secretary considers the action necessary. In that case the secretary may issue an emergency permit which is effective for not more than 30 days, unless reissued by the secretary.

~~(k)~~ (n) The secretary shall deny the issuance of a permit if the secretary determines that the applicant has committed a substantial violation of a previously issued permit for a horizontal well, including the applicable erosion and sediment control plan associated with the previously issued permit, or a substantial violation of one or more of the rules promulgated under this article, and in each instance has failed to abate or seek review of the violation within the time prescribed by the secretary pursuant to the provisions of §22-6A-5(a)(1) and §22-6A-5(a)(2) of this code and the rules promulgated hereunder, which time may not be unreasonable.

~~(l)~~ (o) If the secretary finds that a substantial violation has occurred and that the operator has failed to abate or seek review of the violation in the time prescribed, the secretary may suspend the permit on which the violation exists, after which suspension the operator shall forthwith cease all well work being conducted under the permit. However, the secretary may reinstate the permit without further notice, at which time the well work may be continued. The secretary shall make written findings of the suspension and may enforce the same in the circuit courts of this state. The operator may appeal a suspension pursuant to the provisions of §22-6A-5(a)(23) of this code. The secretary shall make a written finding of any such determination.

~~(m)~~ (p) Any well work permit issued in accordance with this section may be transferred with the prior written approval of the secretary upon his or her finding that the proposed transferee meets all requirements for holding a well work permit, notwithstanding any other provision of this article or rule adopted pursuant to this article. Application for the transfer of any well work permit shall be upon forms prescribed by the secretary and submitted with a permit transfer fee of \$500. Within 90 days of the receipt of approval by the secretary, the transferee shall give notice of the transfer to those persons entitled to notice in §22-6A-10(b) of this code by personal service or by registered mail or by any method of delivery that requires a receipt or signature confirmation, and shall further update the emergency point of contact provided pursuant to subdivision (13), subsection (b) of this section.

On motion of Senator Smith, the following amendment to the House of Delegates amendment to the bill (Eng. S. B. 665) was reported by the Clerk:

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

ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.

§22-6A-7. Horizontal well permit required; permit fee; application; soil erosion control plan; well site safety plan; site construction plan; water management plan; permit fee; installation of permit number; suspension and transfer of a permit.

(a) It is unlawful for any person to commence any well work, including site preparation work which involves any disturbance of land, for a horizontal well without first securing from the secretary a well work permit pursuant to this article.

(b) Every permit application filed under this section shall be on a form as may be prescribed by the secretary, shall be verified, and shall contain the following information:

(1) The names and addresses of: (A) The well operator; (B) the agent required to be designated under subsection (k) of this section; and (C) every person whom the applicant shall notify under any section of this article, together with a certification and evidence that a copy of the application and all other required documentation has been delivered to all such persons;

(2) The names and addresses of every coal operator operating coal seams under the tract of land on which the well is or may be located, and the coal seam owner of record and lessee of record required to be given notice by §22-6A-5(a)(6) of this code, if any, if the owner or lessee is not yet operating the coal seams;

(3) The number of the well or other identification the secretary may require;

(4) The well work for which a permit is requested;

(5) The approximate total depth to which the well is to be drilled or deepened, or the actual depth if the well has been drilled; the proposed angle and direction of the well; the actual depth or the approximate depth at which the well to be drilled deviates from vertical, the angle, and direction of the nonvertical well bore until the well reaches its total target depth or its actual final depth; and the length and direction of any actual or proposed horizontal lateral or well bore;

(6) Each formation in which the well will be completed if applicable;

(7) A description of any means used to stimulate the well;

(8) If the proposed well work will require casing or tubing to be set, the entire casing program for the well, including the size of each string of pipe, the starting point and depth to which each string is to be set and the extent to which each such string is to be cemented;

(9) If the proposed well work is to convert an existing well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(10) If the proposed well work is to plug or replug the well, all information necessary to demonstrate compliance with the legislative rules promulgated by the secretary in accordance with §22-6A-13 of this code;

(11) If the proposed well work is to stimulate a horizontal well, all information necessary to demonstrate compliance with the requirements of §22-6A-5(a)(7) of this code;

(12) The erosion and sediment control plan required under subsection (c) of this section for applications for permits to drill;

(13) A well site safety plan to address proper safety measures to be employed for the protection of persons on the site as well as the general public. The plan shall encompass all aspects of the operation, including the actual well work for which the permit was obtained, completion activities and production activities, and shall provide an emergency point of contact for the well operator. The well operator shall provide a copy of the well site safety plan to the local emergency planning committee established pursuant to §15-5A-7 of this code for the emergency planning district in which the well work will occur at least seven days before commencement of well work or site preparation work that involves any disturbance of land;

(14) A certification from the operator that: (A) It has provided the owners of the surface described in §22-6A-10(b)(1), §22-6A-10(b)(2), and §22-6A-10(b)(4) of this code, the information required by §22-6A-16(b) and §22-6A-16(c) of this code; (B) that the requirement was deemed satisfied as a result of giving the surface owner notice of entry to survey pursuant to §22-6A-10(a)

of this code; or (C) the notice requirements of §22-6A-16(b) of this code were waived in writing by the surface owner; and

(15) Any other relevant information which the secretary may reasonably require.

(c)(1) An erosion and sediment control plan shall accompany each application for a well work permit under this article. The plan shall contain methods of stabilization and drainage, including a map of the project area indicating the amount of acreage disturbed. The erosion and sediment control plan shall meet the minimum requirements of the West Virginia Erosion and Sediment Control Manual as adopted and from time to time amended by the department. The erosion and sediment control plan shall become part of the terms and conditions of any well work permit that is issued pursuant to this article and the provisions of the plan shall be carried out where applicable in the operation. The erosion and sediment control plan shall set out the proposed method of reclamation which shall comply with the requirements of §22-6A-14 of this code.

(2) For well sites that disturb three acres or more of surface, excluding pipelines, gathering lines and roads, the erosion and sediment control plan submitted in accordance with this section shall be certified by a registered professional engineer.

(d) For well sites that disturb three acres or more of surface, excluding pipelines, gathering lines and roads, the operator shall submit a site construction plan that shall be certified by a registered professional engineer and contains information that the secretary may require by rule.

(e) In addition to the other requirements of this section, if the drilling, fracturing, or stimulating of the horizontal well requires the use of water obtained by withdrawals from waters of this state in amounts that exceed 210,000 gallons during any 30-day period, the application for a well work permit shall include a water management plan, which may be submitted on an individual well basis or on a watershed basis, and which shall include the following information:

(1) The type of water source, such as surface or groundwater, the county of each source to be used by the operation for water withdrawals and the latitude and longitude of each anticipated withdrawal location;

(2) The anticipated volume of each water withdrawal;

(3) The anticipated months when water withdrawals will be made;

(4) The planned management and disposition of wastewater after completion from fracturing, refracturing, stimulation, and production activities;

(5) A listing of the anticipated additives that may be used in water utilized for fracturing or stimulating the well. Upon well completion, a listing of the additives that were actually used in the fracturing or stimulating of the well shall be submitted as part of the completion log or report required by §22-6A-5(a)(14) of this code;

(6) For all surface water withdrawals, a water management plan that includes the information requested in subdivisions (1) through (5) of this subsection and the following:

(A) Identification of the current designated and existing water uses, including any public water intakes within one mile downstream of the withdrawal location;

(B) For surface waters, a demonstration, using methods acceptable to the secretary, that sufficient in-stream flow will be available immediately downstream of the point of withdrawal. A sufficient in-stream flow is maintained when a pass-by flow that is protective of the identified use of the stream is preserved immediately downstream of the point of withdrawal; and

(C) Methods to be used for surface water withdrawal to minimize adverse impact to aquatic life; and

(7) This subsection is intended to be consistent with and does not supersede, revise, repeal, or otherwise modify §22-11-1 *et seq.*, §22-12-1 *et seq.*, or §22-26-1 *et seq.* of this code and does not revise, repeal, or otherwise modify the common law doctrine of riparian rights in West Virginia law.

(f) An application may propose and a permit may approve two or more activities defined as well work; however, a separate permit shall be obtained for each horizontal well drilled.

(g) The application for a permit under this section shall be accompanied by the applicable bond as required by §22-6A-15 of this code, the applicable plat required by §22-6A-5(a)(6) of this code, and a permit fee of \$10,000 for the initial horizontal well drilled at a location and a permit fee of \$5,000 for each additional horizontal well drilled on a single well pad at the same location.

(h)(1) An applicant may enter into an expedited permit application process with the secretary for a well permit and pay an additional expedited permit fee of \$30,000 for the initial horizontal well drilled at a location and an additional expedited permit fee of \$15,000 for each additional horizontal well drilled on a single well pad at the same location; *Provided*, That deep well permitting is excluded from this expedited permit process due to the independent board review and approval requirement which is outside the secretary's control.

(2) Upon entering into an expedited permit process and meeting all the criteria set forth in this article, the secretary shall issue or deny a permit within 45 days of the submission of a permit application under this article, unless the secretary seeks additional information or modification from the applicant, which would toll the 45 day period until the secretary receives the required responsive information from the applicant.

(3) Each day the agency exceeds: (A) The 45-day deadline for approval or denial of an expedited initial horizontal well drilled, the secretary shall refund \$2,000 per day up to and including day 60 after the submission of a permit application until the expedited fee is reduced to the normal permit fee amount; or (B) the 45-day deadline for approval or denial of an expedited permit for any additional horizontal well drilled on a single well pad at the same location, the secretary shall be required to refund \$1,000 per day up to and including day 60 after the submission of a permit application, until the expedited fee is reduced to the normal permit fee amount.

(4)(A) After all refunds are paid by the secretary, one half of the additional expedited permit fee shall be deposited in the Oil and Gas Operating Permit and Processing Fund and shall be used by the agency to cover costs to review, process, and approve or deny the applicable horizontal well permit applications and modifications pending before the agency, but not to exceed \$1,000,000 annually in combination with proceeds received through §22-6A-7(i)(4)(A) of this code and any residuary fee proceeds to be distributed as set forth in §22-6A-7(h)(4)(B) of this code.

(B) After all refunds are paid by the secretary, one half of the additional expedited permit fee, plus any residuary as set forth in §22-6A-7(h)(4)(A) of this code, shall be deposited in the Oil and Gas Reclamation Fund and used specifically for the reclamation and plugging of orphaned oil or gas wells.

(i)(1) An applicant may enter into an expedited permit modification application process with the secretary for a well permit and pay an expedited permit modification fee of \$5,000 for the modification of the permit for any horizontal well drilled at a location. *Provided*, That deep well permit modifications are excluded from this expedited permit modification process if the modification is subject to independent board review and approval.

(2) Upon entering into an expedited permit modification process and meeting all the criteria set forth in this article, the secretary shall issue or deny a permit modification within 20 days of the submission of a permit modification application under this article, unless the secretary seeks additional information or further modification from the applicant, which would toll the 20 day period until the secretary receives the required responsive information from the applicant.

(3) Each day the agency exceeds the 20-day deadline for approval or denial of an expedited horizontal well permit modification, the secretary shall refund \$500 per day up to and including day 30 after the submission of an expedited permit modification application, until the expedited permit modification fee of \$5,000 is reduced to zero.

(4)(A) After all refunds are paid by the secretary, one half of the expedited permit modification fee shall be deposited in the Oil and Gas Operating Permit and Processing Fund and shall be used by the agency to cover costs to review, process, and approve or deny the applicable horizontal well permit applications and modifications pending before the agency, but not to exceed \$1,000,000 annually in combination with proceeds received through §22-6A-7(h)(4)(A) of this code and any residuary fee proceeds to be distributed as set forth in §22-6A-7(i)(4)(B) of this code.

(B) After all refunds are paid by the secretary, one half of the expedited permit modification fee, plus any residuary as set forth in §22-6A-7(i)(4)(A) of this code, shall be deposited in the Oil and Gas Reclamation Fund and used specifically for the reclamation and plugging of orphaned oil or gas wells.

(j) Any balance in the Oil and Gas Reclamation Fund, earmarked specifically for the reclamation and plugging of orphaned oil or gas wells pursuant to §22-6A-7(h)(4)(B) and §22-6A-7(i)(4)(B) of this code, which remains at the end of any state fiscal year does not revert to the General Revenue Fund but shall remain in the special revenue account as indicated and may be used only as provided in §22-6-29(b) of this code. The revenues deposited in the Oil and Gas Reclamation Fund, earmarked specifically for the reclamation and plugging of orphaned oil or gas wells pursuant to §22-6A-7(h)(4)(B) and §22-6A-7(i)(4)(B) of this code may not be designated as nonaligned state special revenue funds under §11B-2-32 of this code.

~~(h)~~ (k) The well operator named in the application shall designate the name and address of an agent for the operator who is the attorney-in-fact for the operator and who is a resident of the State of West Virginia upon whom notices, orders, or other communications issued pursuant to this article or §22-11-1 et seq. of this code may be served, and upon whom process may be served. Every well operator required to designate an agent under this section shall, within five days after the termination of the designation, notify the secretary of the termination and designate a new agent.

~~(j)~~ (l) The well owner or operator shall install the permit number as issued by the secretary and a contact telephone number for the operator in a legible and permanent manner to the well upon completion of any permitted work. The dimensions, specifications, and manner of installation shall be in accordance with the rules of the secretary.

~~(j)~~ (m) The secretary may waive the requirements of this section and §22-6A-8, §22-6A-10, §22-6A-11, and §22-6A-24 of this code in any emergency situation if the secretary considers the action necessary. In that case the secretary may issue an emergency permit which is effective for not more than 30 days, unless reissued by the secretary.

~~(k)~~ (n) The secretary shall deny the issuance of a permit if the secretary determines that the applicant has committed a substantial violation of a previously issued permit for a horizontal well, including the applicable erosion and sediment control plan associated with the previously issued permit, or a substantial violation of one or more of the rules promulgated under this article, and in each instance has failed to abate or seek review of the violation within the time prescribed by the secretary pursuant to the provisions of §22-6A-5(a)(1) and §22-6A-5(a)(2) of this code and the rules promulgated hereunder, which time may not be unreasonable.

~~(l)~~ (o) If the secretary finds that a substantial violation has occurred and that the operator has failed to abate or seek review of the violation in the time prescribed, the secretary may suspend the permit on which the violation exists, after which suspension the operator shall forthwith cease all well work being conducted under the permit. However, the secretary may reinstate the permit without further notice, at which time the well work may be continued. The secretary shall make written findings of the suspension and may enforce the same in the circuit courts of this state. The operator may appeal a suspension pursuant to the provisions of §22-6A-5(a)(23) of this code. The secretary shall make a written finding of any such determination.

~~(m)~~ (p) Any well work permit issued in accordance with this section may be transferred with the prior written approval of the secretary upon his or her finding that the proposed transferee meets all requirements for holding a well work permit, notwithstanding any other provision of this article or rule adopted pursuant to this article. Application for the transfer of any well work permit shall be upon forms prescribed by the secretary and submitted with a permit transfer fee of \$500. Within 90 days of the receipt of approval by the secretary, the transferee shall give notice of the transfer to those persons entitled to notice in §22-6A-10(b) of this code by personal service or by registered mail or by any method of delivery that requires a receipt or signature confirmation, and shall further update the emergency point of contact provided pursuant to subdivision (13), subsection (b) of this section.

Following discussion,

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

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

Engrossed Senate Bill 665, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney,

Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 665) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. S. B. 665) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 543, Relating generally to automobile warranties and inspections.

On motion of Senator Takubo, 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:

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-107a. Used motor vehicles sold “as is”.

(a) Notwithstanding the provisions of §46A-6-107 of this code, a used motor vehicle may be sold “as is” if:

(1) The vehicle is inoperable and a total loss;

(2) The vehicle has been custom built or modified for show purposes or racing; or

(3) The vehicle is the following:

(A) Sold for less than \$4,000;

(B) Driven more than 100,000 miles at the time sold; or

(C) Seven years of age or older as calculated from January 1 of the designated model year of the vehicle.

(b) A buyer who purchases a vehicle "as is" that meets the criteria set out in the provisions of §46A-6-107a(a)(3) of this code shall have the right to cancel the sale by the end of the dealer's third business day following the sale. To cancel the sale, the "as is" vehicle must have a significant mechanical issue or issues that can be reasonably expected to have existed at the time of the sale. Cancellation shall become effective when the buyer returns the "as is" vehicle to the point of sale by the end of the dealer's third business day following the sale.

(c) For the purposes of this section, a used motor vehicle is a "total loss" only if:

(1) There is material damage to the vehicle's frame, unitized structure, or suspension system; and

(2) The projected cost of repairing the damage exceeds the market value of the vehicle at the time of the incident causing it to be declared a total loss.

(d) If a used motor vehicle is sold "as is" pursuant to this section, a merchant shall satisfy the following disclaimer requirements:

(1) A disclaimer must appear on the front page of the contract of sale;

(2) The disclaimer shall read as follows:

"AS IS"

THIS VEHICLE IS SOLD "AS IS". THIS MEANS THAT YOU WILL LOSE YOUR IMPLIED WARRANTIES. YOU WILL HAVE TO PAY FOR ANY REPAIRS NEEDED AFTER THE SALE. IF WE HAVE MADE ANY PROMISES TO YOU, THE LAW SAYS WE MUST KEEP OUR PROMISES EVEN IF WE SELL "AS IS". TO PROTECT YOURSELF, ASK US TO PUT ALL PROMISES IN WRITING. YOU MAY HAVE THE RIGHT TO CANCEL THIS SALE BY THE END OF THE DEALER'S THIRD BUSINESS DAY FOLLOWING THE SALE IF THE VEHICLE HAS SIGNIFICANT MECHANICAL ISSUE THAT CAN BE REASONABLY EXPECTED TO HAVE EXISTED AT THE TIME OF THE SALE.

(3) The text of the disclaimer must be printed in 12-point boldfaced type, except the heading, which must be in 16-point extra boldfaced type;

(4) The entire disclaimer must be boxed;

(5) The consumer shall sign and date within the box containing the disclaimer prior to the sale;

(6) The merchant shall describe in writing any defects or malfunctions, if any, disclosed to the merchant by a previous owner of the used motor vehicle or discoverable by the merchant after an inspection of the used motor vehicle; and

(7) The merchant shall provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle.

(e) An “as is” sale of a used motor vehicle waives implied warranties, but does not waive any express warranties, either oral or written, upon which the consumer relied in entering into the transaction.

(f) The provisions of this section do not apply to motor vehicles sold as surplus by a state agency.

(g) The provisions of this section only apply to sales directly to consumers.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 543—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-6-107a, relating to warranties as to sales of motor vehicles; providing that a used motor vehicle may be sold “as is” under certain circumstances; providing certain disclosure requirements for “as is” sales of used motor vehicles; allowing cancellation of an “as is” sale by the end of the dealer’s third business day following the sale if the vehicle has mechanical issues; providing that a consumer shall sign and date the disclosure for an “as is” sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle “as is”; providing that the merchant provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 543, as amended by the House of Delegates, was then put upon its passage.

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

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Mann, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Clements, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Sypolt, and Unger—10.

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. 543) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Cline, Facemire, Hamilton, Hardesty, Mann, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Clements, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Sypolt, and Unger—10.

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 Com. Sub. for S. B. 543) takes effect July 1, 2019.

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, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 544, Increasing salaries for members of WV State Police over three-year period.

On motion of Senator Takubo, 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:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant, and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class, or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, ~~2018~~ 2019, members shall receive annual salaries payable at least twice per month as follows:

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~SUPERVISORY AND NONSUPERVISORY RANKS~~

Cadet During Training	\$ 36,154
Cadet Trooper After Training	43,414
Trooper Second Year	44,426
Trooper Third Year	44,809
Senior Trooper	45,208
Trooper First Class	45,814
Corporal	46,420
Sergeant	50,721
First Sergeant	52,872
Second Lieutenant	55,022
First Lieutenant	57,173
Captain	59,324
Major	61,474
Lieutenant Colonel	63,625

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION~~

I	44,426
II	45,208
III	45,814
IV	46,420

V	50,721
VI	52,872
VII	55,022
VIII	57,173

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

I	44,426
II	45,208
III	45,814
IV	46,420
V	50,721
VI	52,872
VII	55,022
VIII	57,173

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

<u>Cadet During Training</u>	<u>\$ 38,524</u>
<u>Cadet Trooper After Training</u>	<u>45,784</u>
<u>Trooper Second Year</u>	<u>46,796</u>
<u>Trooper Third Year</u>	<u>47,179</u>
<u>Senior Trooper</u>	<u>47,578</u>
<u>Trooper First Class</u>	<u>48,184</u>
<u>Corporal</u>	<u>48,790</u>
<u>Sergeant.....</u>	<u>53,091</u>
<u>First Sergeant.....</u>	<u>55,242</u>
<u>Second Lieutenant</u>	<u>57,392</u>

<u>First Lieutenant.....</u>	<u>59,543</u>
<u>Captain.....</u>	<u>61,694</u>
<u>Major.....</u>	<u>63,844</u>
<u>Lieutenant Colonel.....</u>	<u>65,995</u>

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION

<u>I.....</u>	<u>46,796</u>
<u>II.....</u>	<u>47,578</u>
<u>III.....</u>	<u>48,184</u>
<u>IV.....</u>	<u>48,790</u>
<u>V.....</u>	<u>53,091</u>
<u>VI.....</u>	<u>55,242</u>
<u>VII.....</u>	<u>57,392</u>
<u>VIII.....</u>	<u>59,543</u>

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

<u>I.....</u>	<u>46,796</u>
<u>II.....</u>	<u>47,578</u>
<u>III.....</u>	<u>48,184</u>
<u>IV.....</u>	<u>48,790</u>
<u>V.....</u>	<u>53,091</u>
<u>VI.....</u>	<u>55,242</u>
<u>VII.....</u>	<u>57,392</u>
<u>VIII.....</u>	<u>59,543</u>

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in §15-2-5(e) of this code and supplemental pay as provided in §15-2-5(g) of this code.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in §15-2-5(d) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed \$200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of \$5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to §30-29-8 of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.;

And,

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

Eng. Senate Bill 544—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to increasing salaries of members of the West Virginia State Police.

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

Engrossed Senate Bill 544, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill 544 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 544) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. S. B. 544) takes effect July 1, 2019.

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

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

Eng. Com. Sub. for Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

On motion of Senator Takubo, 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 564—A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-5-12 of said code, all relating to expanding certain insurance coverages for pregnant women; expanding who is eligible to receive certain Medicaid services; expanding who is eligible to receive certain services through the Children's Health Insurance Program; providing the minimum services are to be covered; and providing an effective date.

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

Engrossed Committee Substitute for 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, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 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 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 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

On motion of Senator Takubo, 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:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3ss. County option election on ~~allowing~~ forbidding nonintoxicating beer, wine or alcoholic liquors to be sold, given or dispensed after 10:00 a.m. on Sundays.

Beginning July 1, 2019, the county commission of any county may conduct a county option election on the question of whether the sale or dispensing of nonintoxicating beer, wine or alcoholic liquors in or on a licensed premises shall be allowed in the county beginning ~~ten o'clock a.m.~~ 1:00 p.m. on any Sunday, as provided in §11-16-18 of this code, ~~sections three-a and three-b, article four, chapter sixty of this code~~ §60-7-12 of this code, §60-8-34 of this code upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §60-59-3 of this code, and the publication area for publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election. On the local option election ballot shall be printed the following: "Shall the beginning hour at which non-intoxicating beer, wine and alcoholic liquor be sold or dispensed for licensed on premises consumption only in _____ County on Sundays be changed from 10:00 a.m. ~~one o'clock p.m.~~ to ~~ten o'clock a.m.~~ 1:00 p.m.

If approved by the voters this would ~~allow~~ forbid private clubs and restaurants licensed to sell and dispense non-intoxicating beer, wine and alcoholic liquor; licensed private wine restaurants, private wine spas, and private wine bed and breakfasts to sell and dispense wine; and licensed Class A retail dealers to sell and dispense nonintoxicating beer for on premises consumption ~~only beginning at ten o'clock a.m. until 1:00 p.m.~~ If prior to July 1, 2019, a county commission had voted against 10:00 a.m. on premises sales, then notwithstanding this section, on premises sales of nonintoxicating beer, wine and alcoholic liquors shall not begin until 1:00 p.m. ~~Additionally, if approved, it would also allow any mini-distilleries, wineries or farm wineries in this county to offer complimentary samples for on premises consumption only beginning at ten o'clock a.m."~~

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, in the event a majority of the votes are marked "Yes" all applicable licensees shall be ~~permitted~~ ~~prohibited~~ forbidden to sell and dispense beer, wine or alcoholic liquors ~~beginning at 10:00 a.m. until 1:00 p.m.~~ on Sundays. In the event a majority of the votes are marked "No" all applicable licensees will continue to be required to comply with existing law.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It shall be unlawful:

(1) For any licensee, his, her, its or their servants, agents or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 a.m., or between the hours of 2:00 a.m. and ~~one p.m.~~ 10:00 a.m., or a Class A retail dealer who sells nonintoxicating beer for on premises consumption only between the hours of 2:00 a.m. and ~~ten a.m.~~ 1:00 p.m. in any county upon approval as provided for in ~~section three pp,~~ ~~article one, chapter seven~~ §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor or brew-pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;

(6) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas. Nothing herein contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events: *Provided, however*, That no event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the commissioner;

(7) For any licensee to permit in his or her premises any lewd, immoral or improper entertainment, conduct or practice;

(8) For any licensee except the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code or a holder of a license or a private wine restaurant issued under the provisions of article eight of said chapter to possess a federal license,

tax receipt or other permit entitling, authorizing or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(9) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of article seven, chapter sixty of this code or the premises of a private wine restaurant licensed under the provisions of article eight of said chapter;

(10) For any licensee to manufacture, import, sell, trade, barter, possess or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of article eight of said chapter insofar as the private wine restaurant is authorized to serve wine;

(11) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer or manufacturer licensed under the laws of this state;

(12) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided*, That a licensee may have speaker systems for outside broadcasting so long as the noise levels do not create a public nuisance or violate local noise ordinances;

(13) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(14) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

(15) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

(16) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(17) For any Class A licensee, his, her, its or their servants, agents or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of eighteen years is in or upon the premises in the immediate company of his or her parent or parents, or where and while a person under the age of eighteen years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any

item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on the premises;

(18) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of such nonintoxicating beer: Provided, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers or delivers to another distributor a particular brand or brands for sale at wholesale; and

(19) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter twenty-nine-a of this code.

(b) Any person who violates any provision of this article including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than thirty days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished, or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer to an individual who is less than 21 years of age by one of his or her employees, servants or agents. Any agent, servant, or employee who has improperly sold, furnished or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents

regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) "Transaction scan" means the process by which a person checks, by means of a transaction scan device, the age, and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(d) Nothing in this article nor any rule or regulation of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age but at least 16 years of age: Provided, That the person's duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: Provided, however, That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee's license.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 2. ALCOHOL BEVERAGE CONTROL COMMISSIONER.

§60-2-17a. Law enforcement cooperation.

In addition to the assistance of law enforcement provided under §15-2-12 of this code, the commissioner may obtain assistance in the enforcement of §11-16-1 et seq. and §60-1-1 et seq. of this code from county or municipal law-enforcement agencies by making a written request therefor. The assistance authorized by this section is limited only to accompanying the Commissioner and his or her agents and may not be unreasonably withheld. Any law enforcement officer acting pursuant to this section may further act upon crimes committed in his or her presence: Provided, That any officer so acting must be within his or her geographic jurisdiction, and nothing in this section authorizes any officer to act outside of the scope of his or her geographic jurisdiction.

§60-2-17b. Wine and liquor operating fund established; operations fee; fund issues.

(a) As of July 1, 2019, there is an annual nonrefundable and nonprorated operational fee of \$100 for all distilleries, mini-distilleries, wineries, farm wineries, Class A retail licensees, Class B retail licensees, private clubs, private wine retailers, wine specialty shops, wine restaurants, private wine spas, private wine bed and breakfasts, wine suppliers, and wine distributors which shall be paid on or before July 1, 2019, and every July 1 thereafter. All fees collected by the commissioner pursuant to this section shall be deposited in a special revenue account in the State Treasury, hereby created, to be known as the Wine and Liquor Operations Fund. Moneys in the fund may only be expended by the commissioner for the administration of this chapter, as appropriated by law.

(b) Licensees holding multiple licenses for nonintoxicating beer, nonintoxicating craft beer, wine, or liquor shall be subject to paying only one operations fee of \$100 under this chapter and under §11-16-10(d) of this code.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-7. Specific acts forbidden; indictment.

A person shall not:

(1) Manufacture or sell in this state without a license any alcoholic liquor, except as permitted by this article;

(2) Aid or abet in the manufacture or sale of alcoholic liquor without a license, except as permitted by this article;

(3) Sell or tender without a license any alcoholic liquor other than permitted by this article;

(4) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, unrectified or impure form of ethyl alcohol, or other foreign or deleterious substance or liquid;

(5) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has been sold at retail in this state;

(6) Advertise any alcoholic liquor in this state except in accordance with the rules and regulations of the commissioner; or

(7) Distribute, deal in, process, or use crowns, stamps, or seals required under the authority of this chapter, except in accordance with the rules and regulations prescribed by the commissioner; or

(8) Manufacture or sell, aid or abet in the manufacture or sale, possess, transport or ship, use, or in any other manner provide or furnish powdered alcohol.

A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50 nor more than \$500, or confined in jail not less than 30 days nor more than one year or both such fine and imprisonment, for the first offense. Upon conviction of a second or subsequent offense, the court may in its discretion impose a penalty of confinement in the penitentiary for a period not to exceed three years. A person who violates any provision of this section for the second or any subsequent offense under this section, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a period not to exceed three years.

An indictment for any first violation of subdivisions (1), (2) and (3) of this section, or any of them, shall be sufficient if in form or effect as follows:

State of West Virginia

County of, to wit:

The Grand Jurors of the State of West Virginia, in and for the body of the County of, upon their oaths present that, on the day of, 20...., in the said County of

....., did unlawfully, without a State license and without authorization under the Alcohol Beverage Control Act, manufacture and sell, and aid and abet in the manufacture and sale of a quantity of alcoholic liquor, against the peace and dignity of the state.

Any indictment under this section shall otherwise be in conformity with §62-9-1 *et seq.* of this code.

§60-6-8. Unlawful sale or possession by licensee.

A licensed person shall not:

(1) Sell, furnish, tender, or serve alcoholic liquors of a kind other than that which such license or this chapter authorizes him or her to sell;

(2) Sell, furnish, tender, or serve beer to which wine, spirits, or alcohol has been added;

(3) Sell, furnish, tender, or serve wine to which other alcoholic spirits have been added, otherwise than as required in the manufacture thereof under regulations of the commission;

(4) Sell, furnish, tender, or serve alcoholic liquors to a person specified in §60-3-22 of this chapter;

(5) Sell, furnish, tender, or serve alcoholic liquors except as authorized by his or her license;

(6) Sell, furnish, tender, or serve alcoholic liquors other than by the drink, poured from the alcoholic liquors' original container: *Provided*, That under certain requirements exceptions to liquor by the drink are as follows:

(A) A private club licensed under §60-7-1: *et seq.* of this code, that is in good standing with the commissioner and has paid a \$1000 on-premises only bottle service fee to the commissioner, may sell or serve liquor by the bottle to two or more persons for consumption on the licensed premises only, and any liquor bottle sold by such a private club shall be sold at retail for personal use, and not for resale, to a person for not less than 300 percent of the private club's cost, and no such liquor bottle shall be removed from the licensed premises by any person or the licensee; and

(B) A Class A licensee licensed under §60-8-1 *et seq.* of this code may sell or serve wine by the bottle to two or more persons for consumption on the licensed premises only, unless such licensee has obtained a license or privilege authorizing other activity.

(7) Sell, furnish, tender, or serve pre-mixed alcoholic liquor that is not in the original container: *Provided*, That a licensee may sell, furnish, tender, and serve pre-mixed beverages consisting of alcoholic liquors, non-alcoholic mixer, and ice if:

(A) The frozen drink mixing machine is emptied and sanitized daily; and

(B) That a written record reflecting the cleaning and sanitizing of the frozen drink machine is maintained for inspection by the commissioner and health inspectors.

~~(6)~~ (8) Sell, furnish, tender, or serve any alcoholic liquor when forbidden by the provisions of this chapter;

~~(7)~~ (9) Sell, possess, possess for sale, tender, serve, furnish, or provide any powdered alcohol;

~~(8)~~ (10) Keep on the premises covered by his or her license alcoholic liquor other than that which he or she is authorized to sell, furnish, tender, or serve by such license or by this chapter.

A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50 nor more than \$500 or confined in jail not less than 30 days nor more than one year, or both such fine and confinement for the first offense. Upon conviction of a second or subsequent offense, the court may in its discretion impose a penalty of confinement in ~~the penitentiary~~ a state correction facility for a period not to exceed three years. A person who violates any provision of this section for the second or any subsequent offense under this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correction facility for a period not to exceed three years.

§60-6-9. Intoxication or drinking in public places; illegal possession of alcoholic liquor; arrests by sheriffs or their deputies for violation in their presence; penalties.

(a) A person may not:

(1) Appear in a public place in an intoxicated condition;

(2) Drink alcoholic liquor in a public place;

(3) Tender a drink of alcoholic liquor to another person in a public place;

(4) Operate a business without a license issued under §60-1-1 et seq. of this code which knowingly facilitates the consumption of alcoholic liquors in a public place by providing for on-site items such as cups, glasses, ice, and non-alcoholic beverages used to mix with alcoholic liquors, refrigeration, or on-site storage of alcoholic liquors in a lounge area or space for persons to gather, perhaps offering musical entertainment, exotic dancing or other such nude entertainment, or other similar activity or entertainment. Such business may be commonly known as a "bring your own bottle", "bring your own booze", or "BYOB" establishments.

~~(4)~~(5) Possess alcoholic liquor in the amount in excess of 10 gallons, in containers not bearing stamps or seals of the commissioner, without having first obtained written authority from the commissioner therefor; or

~~(5)~~(6) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions of this chapter.

(b) Any law-enforcement officer may arrest without a warrant and take the following actions against a person who, in his or her presence, violates subdivision (1) of subsection (a) of this section: (1) If there is some nonintoxicated person who will accept responsibility for the intoxicated person, the officer may issue the intoxicated person a citation specifying a date for appearance before a judicial officer and release him or her to the custody of the individual accepting responsibility: *Provided*, That the issuance of a citation shall be used whenever feasible; (2) if it does not impose an undue burden on the officer, he or she may, after issuance of a citation, transport the individual to the individual's present residence or arrange for the transportation; (3) if the individual is incapacitated or the alternatives provided in subdivisions (1) and (2) of this subsection are not possible, the officer shall transport or arrange for transportation to the

appropriate judicial officer; or (4) if the individual is incapacitated and, in the law-enforcement officer's judgment, is in need of acute medical attention, that officer shall arrange for transportation by ambulance or otherwise to a hospital emergency room. The officer shall accompany the individual until he or she is discharged from the emergency room or admitted to the hospital. If the individual is released from the emergency room, the officer may proceed as described in subdivisions (1), (2), and (3) of this subsection. If the individual is admitted to the hospital, the officer shall issue a citation to the individual specifying a date for appearance before a judicial officer.

(c) Upon presentment before the proper judicial officer, the law-enforcement officer serves as the chief complaining witness. The judicial officer shall determine if there is probative evidence that the individual may be guilty of the charge of public intoxication. If such evidence is not presented, the charge shall be dismissed and the individual released. If sufficient evidence is presented, the judicial officer shall issue a warrant and establish bail or issue a summons to the individual. Once a warrant or summons has been issued, the following actions may be taken:

(1) If the individual is no longer incapacitated, he or she may be released;

(2) If the individual is still incapacitated but a non-intoxicated person is available to accept responsibility for him or her, he or she may be released to the responsible person; or

(3) If the individual is still incapacitated and no responsible person is available, the judicial officer shall proceed under §27-5-1 *et seq.* and §27-6A-1 *et seq.* of this code.

(d) Any law-enforcement officer may arrest and hold in custody, without a warrant, until complaint may be made before a judicial officer and a warrant or summons issued, any person who in the presence of the law-enforcement officer violates any one or more of subdivisions (1) through (6), subsection (a) of this section: *Provided*, That the law-enforcement officer may use reasonable force to prevent harm to himself or herself, the individual arrested, or others in carrying out the provisions of this section.

(e) Any person who violates subdivision (1), subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced by a judicial officer in accordance with the following options:

(1) Upon first offense, a fine of not less than \$5 nor more than \$100. If the individual, prior to conviction, agrees to voluntarily attend an alcohol education program of not more than six hours duration at the nearest community mental health – mental retardation center, the judicial officer may delay sentencing until the program is completed and upon completion may dismiss the charges;

(2) Upon conviction for a second offense, a fine of not less than \$5 nor more than \$100 and not more than 60 days in jail or completion of not less than five hours of alcoholism counseling at the nearest community mental health – mental retardation center;

(3) Upon third and subsequent convictions, a fine of not less than \$5 nor more than \$100 and not less than five nor more than 60 days in jail or a fine of not less than \$5 nor more than \$100 and completion of not less than five hours of alcoholism counseling at the nearest community mental health – mental retardation center: *Provided*, That three convictions for public intoxication within the preceding six months is considered evidence of alcoholism. For the educational counseling programs described in this subsection the community mental health – mental

retardation center may charge each participant its usual and customary fee and shall certify in writing to the referring judicial officer the completion or failure to complete the prescribed program for each individual.

(f) A person charged with a violation of subdivision (1), subsection (a) of this section who is an alcoholic shall be found not guilty by reason of addiction and proper disposition made pursuant to §27-5-1 *et seq.* and §27-6A-1 *et seq.* of this code.

(g) Any person who violates subdivision (2), subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100; and upon a second or subsequent conviction thereof, shall be fined not less than \$5 nor more than \$100, or confined in jail not more than 60 days, or both.

(h) Any person who violates subdivision (3), subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100, or confined in jail not more than 60 days, or both.

(i) Any person who violates subdivision (5) or (6), subsection (a) of this section is guilty of a misdemeanor and, upon his or her first conviction, shall be fined not less than \$100 nor more than \$500; and upon conviction of second or subsequent offense, he or she is guilty of a felony and, shall be confined in a state correctional facility for a period of not less than one year nor more than three years.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; power to lease building for establishment of private club.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Applicant" means a private club applying for a license under the provisions of this article.

(b) "Code" means the official Code of West Virginia, 1931, as amended.

(c) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(d) "Licensee" means the holder of a license to operate a private club granted under this article, which license shall remain unexpired, unsuspended, and unrevoked.

(e) "Private club" means any corporation or unincorporated association which either: (1) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; or (2) is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club

maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; or (3) is organized and operated for legitimate purposes which has at least 100 duly elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or (4) is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county or municipal park or at any airport, in which building or premises a club has been established, to which club are admitted only duly elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(f) "Private fair and festival" means an applicant for a private club or a licensed private club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county wherein the festival, fair, or other event is to be conducted;

(3) Shall prepare, provide, or engage a food caterer to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any documentation or agreements of such to the commissioner prior to approval;

(4) Shall not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors (liquor and wine), nonintoxicating beer, or nonintoxicating craft beer;

(5) Shall provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(6) Shall provide a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event; and

(7) Utilizes an age verification system approved by the commissioner.

(g) "Private hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 2,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

(4) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared in the private hotel's full kitchen, and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) Lists in the application referenced in subdivision (5) of this subsection the entire property and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

(7) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises; and

(8) Utilizes an age verification system approved by the commissioner.

(f) (h) "Private resort hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 5,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 50 separate bedrooms;

(3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

(4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private resort hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises and as noted on the private resort hotel's floorplan;

(7) Has an identified person or persons or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(8) Utilizes an age verification system approved by the commissioner; and

(9) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery.

~~(g)~~ (i) "Private golf club" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least ~~one thousand~~ 100 members;

(2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private golf club's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private golf club's licensed premises and as noted on the private golf club's floorplan;

(6) Has an identified person or persons or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises; and

(7) Utilizes an age verification system approved by the commissioner.

(i) "Private nine-hole golf course" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private nine-hole golf course's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private nine-hole golf course's licensed premises and as noted on the private nine-hole golf course's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises; and

(7) Utilizes an age verification system approved by the commissioner.

The Department of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation or public authority operating any park or airport may lease as lessor a building or portion thereof or other limited premises in any such park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-3. Sale of alcoholic liquors and nonintoxicating beer by licensee authorized.

Notwithstanding any other provisions of this code to the contrary, licensees are hereby authorized to sell, tender, and serve alcoholic liquors by the drink and as otherwise authorized by the provisions of §60-1-1 et seq. of this code, other than in sealed packages, for consumption on the premises of the licensees, to their members and their guests in accordance with the provisions of this article, rules of the commissioner and as authorized under §60-6-8 of this code. The licensees may keep and maintain on their premises a supply of those lawfully acquired alcoholic liquors in such quantities as may be appropriate for the conduct of operations thereof.

§60-7-4. Application for license; information required; verification; application to be accompanied by fees; bond; college fraternities and sororities ineligible for license; racial discrimination by applicants prohibited.

(a) Application for a license to operate a private club shall be made on such form as may be prescribed by the commissioner and shall include:

(1) The name of the applicant;

(2) If the applicant is an unincorporated association, the names and addresses of the members of its governing board;

(3) If the applicant is a corporation, the names and addresses of its officers and directors;

(4) The place at which the applicant will conduct its operations and whether the same is owned or leased by the applicant;

(5) The number of members of the applicant;

(6) The name or names of any national organizations with which applicant is affiliated and the nature of such affiliation;

(7) The size and nature of the dining and kitchen facilities operated by applicant;

(8) Accurate and complete ownership information;

(9) An attestation that the information in the application is true and accurate; and

(10) Such other information as the commissioner may reasonably require which shall include, but not be limited to, the criminal records, if any, of each member of the applicant's governing board and/or its officers and directors who have been convicted of a felony or a crime involving moral turpitude.

(b) The application shall be verified by each member of the governing board of the applicant if an unincorporated association or, if the applicant is a corporation, by each of its officers and all members of its board of directors. The application shall be accompanied by the license fee hereinafter prescribed and by a bond of the applicant in the penal sum of \$5,000 with a corporate surety authorized to transact business in the state of West Virginia, payable to the State of West Virginia, which bond shall be conditioned on the payment of all fees herein prescribed and on the faithful performance of and compliance with the provisions of this article.

(c) Under no circumstance may any college fraternity or sorority be issued a license to operate a private club.

(d) No license to operate a private club will be issued to applicants who discriminate against any person or group of persons because of race or color of such person or group of persons.

§60-7-5. Investigation by commissioner; issuance or refusal of license; special requirements for clubs at parks and airports; form of license; license valid at one location only; expiration and renewal; transferability.

(a) Upon receipt of ~~the~~ a completed application referred to in §60-7-4 of this code, together with the accompanying fee and bond, the commissioner shall conduct an investigation to determine the accuracy of the matters contained in such completed application and whether applicant is a bona fide private club of good reputation in the community in which it shall operate. For the purpose of conducting such investigation, the commissioner may withhold the granting or refusal to grant such license for a period not to exceed 30 days or until the applicant has completed the conditions set forth in this article and in §60-7-4(a) of this code, all as determined by the commissioner. If it shall appear that such applicant is a bona fide private club of good reputation in the community in which it shall operate and that there is no false statement, no material misrepresentations, no hidden ownership, or persons with an undisclosed pecuniary interest, and no omissions or failures to disclose in such application as determined by the commissioner. ~~the commissioner~~ he or she shall issue a license authorizing the applicant to sell alcoholic liquors as provided in §60-7-3 of this code, and otherwise shall refuse to issue such

license, except that in the case of an application by a corporation or association to operate a private club in connection with:

(1) A state park, the Director of the Department of Natural Resources must grant his or her approval before the license can be issued; or

(2) A county or municipal park, or an airport, the authority governing the park or airport must grant its approval before the license can be issued.

A license may not be issued for a private club in any state park unless a dining facility comparable to the dining facility for the proposed private club will be available to serve meals to the general public. A license may not be issued for a private club in any county or municipal park, or an airport, unless a dining facility comparable to the dining facility for the proposed private club will be available to serve meals to the general public.

(b) Upon refusal to issue such license the commissioner shall make and enter an order denying such application, which denial and refusal shall be final unless a hearing is requested in accordance with the provisions of §60-7-13 of this code. When such refusal or denial becomes final the commissioner shall forthwith refund to the applicant his or her fees and bond accompanying the application.

(c) Such license shall be of such form and design as the commissioner may prescribe by reasonable rule or regulation and shall authorize the licensee to sell alcoholic liquors at only one location.

(d) Such license shall expire on June 30 next following the date of issue and may be renewed upon the same showing as required for the issuance of the initial license, together with the payment of fees and filing of the bond as required by this article.

(e) A license issued under the provisions of this article may not be transferable.

§60-7-6. Annual license fee; partial fee; and reactivation fee.

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans' organization or a nonprofit social club shall be \$750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section shall be \$1,000 if the private club has ~~less~~ fewer than 1,000 members, \$2,000 if the private club is a private nine-hole golf course as defined in §60-7-2 of this code; \$2,500 if the private club has 1,000 or more members, \$4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code, and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, said private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas shall be \$7,500, and the annual license fee for a private resort hotel with at least six but no more than 10 designated areas shall be \$12,500. The annual license fee for a private resort hotel with at least 11 but no more than 15 designated areas shall be \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas shall be \$22,500: *Provided*, That a private resort hotel having obtained the license and paid the \$22,500 annual license fee may, upon application to and approval of the commissioner, designate

additional areas for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

(c) The fee for any such license issued following January 1 of any year and to expire on June 30 of such year shall be one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional \$150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee must be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

~~(d)~~ (e) All such fees shall be paid by the commissioner to the State Treasurer and credited to the General Revenue Fund of the state.

§60-7-6a. Special privilege of Class A private club licensee to operate separate but connected Class B license.

A Class A private club licensee with 1,000 or more members may, in the commissioner's discretion, operate Class B licenses for the off-premises sale of nonintoxicating beer and wine in a connected but separately operated area of the Class A private club premises: *Provided*, That each business is licensed separately and operates separate cash registers and maintains separation barriers between the different licensed operations. Failure of a licensee to license two innerconnected businesses shall subject the licensee to the penalties under this article.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and non-intoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) Shall make application with the commission at least 15 days pursuant to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of \$750; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event.

(c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days and no more than six licenses may be issued to the same person or entity in a calendar year.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section must be purchased from the licensed distributor that services the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 et seq. of this code.

(e) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 et seq. of this code.

(f) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 et seq. of this code.

(g) A licensee authorized by this section may utilize bona fide employees or volunteers to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(h) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products but shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including without limitation, the right to revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell, or offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in §60-6-8 of this code;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper entertainment, conduct, or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming, and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by duly licensed charitable or public service organization, (or its auxiliaries) pursuant to §47-20-1 et seq. of this code, and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries) pursuant to §47-21-1 et seq. of this code, all of which are permissible on a licensee's licensed premises when operated in accordance with this code, rules, and regulations: *Provided*, That a private resort hotel holding a license issued pursuant to §60-7-1 et seq. of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises

licensed under §29-22A-1 et seq., and §29-22C-1 et seq., or §29-25-1 et seq. of this code, during hours of operation authorized by §29-22A-1 et seq., and §29-22C-1 et seq., or §29-25-1 et seq., of this code.

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors, for or to any person known to be deemed legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. the 7:00 a.m. on weekdays or Saturdays, between the hours of 3:00 a.m. and 4:00 p.m. 10:00 a.m. on any Sunday or, between the hours of 3:00 a.m. and ~~4:00 a.m.~~ 1:00 p.m. in any county upon approval as provided for in ~~§7-1-3pp~~ §7-1-3ss of this code, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of age;

(7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues paying member in good standing of said private club or a guest of such member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption except as authorized by the commissioner;

(10)(A) Employ any person who is less than 18 years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;

(B) Employ any person who is between the ages of 18 and 21 who is not directly supervised by a person aged 21 or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer, wine, or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is ~~unlawful~~ lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises., ~~the fact that alcoholic liquors may be purchased thereat.~~

(c) Any person who violates any of the foregoing provisions is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or imprisoned in ~~the county~~ jail for a period not to exceed 1 year, or both fined and imprisoned.

ARTICLE 8. SALE OF WINES.**§60-8-34. WHEN RETAIL SALES PROHIBITED.**

It shall be unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant, or private wine spa licensee, his or her servants, agents or employees to sell or deliver wine between the hours of ~~two o'clock a.m. and one o'clock p.m., 2:00 a.m. and 10:00 a.m.~~ or, it shall be unlawful for a winery, farm winery, private wine bed and breakfast, private wine restaurant, or private wine spa, his or her servants, agents or employees to sell wine between the hours of ~~two o'clock a.m. and ten o'clock a.m.~~ 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in ~~section three pp, article one, chapter seven~~ §7-1-3ss of this code, on Sundays, or between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and Saturdays.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.****§61-8-27. Unlawful admission of children to dance house, etc.; penalty.**

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private hotel, private nine-hole golf course, private resort hotel, and private golf club licensed pursuant to §60-7-1 et seq. of this code and in compliance with subdivision (8), subsection (f), section two of said article §60-7-2(g)(8), §60-7-2(h)(7), §60-7-2(i)(7), and §60-7-2(j)(7) of this code; ~~or~~ (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) of this code, by utilizing a mandatory carding or identification program whereby all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.;

And,

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

Eng. Com. Sub. for Senate Bill 561—A Bill to amend and reenact §7-1-3ss of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §60-2-17a and §60-2-17b; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto two new sections, designated §60-7-6a and §60-7-8a; and to amend and reenact §61-8-27 of said code, all relating to alcoholic beverages generally; creating a county option election on forbidding nonintoxicating beer, wine or alcoholic

liquors to be sold, given or dispensed after 10:00 a.m. on Sundays in lieu of an county option election to permit such sales; permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement; limiting the jurisdiction of such requested law enforcement assistance; implementing a \$100 operations fee and establishing special revenue account and fund; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink with certain exceptions; clarifying prohibition on liquor bottle sales in Class A licenses; providing for a bottle service fee and establishing requirements for bottle service; clarifying certain licensing requirements for licensure; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; forbidding the operation of certain bring your own bottle establishments; creating a private fair and festival license; definitions; license requirements; license fee; creating the private hotel license and license fee; creating a private nine-hole golf course license and fee; removing the need for golf carts to be offered at licensed golf courses; definitions; license requirements; license fee; permitting a private resort hotel to have inner-connection with a resident brewer who has a brewpub; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees who fail to timely file their renewal application and pay their annual license fees; permitting a license privilege for certain licensees to operate a connected but separately operated Class A on-premises license and a Class B off-premises license; clarifying that certain state-licensed gaming is permissible in a private club; clarifying permitted hours of operation for certain licensees; and permitting minors to attend a private hotel, private nine-hole golf course, and a private fair or festival under certain conditions

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 561) was reported by the Clerk and adopted:

On page two, section three-ss, after the words “until 1:00 p. m.” by striking out the following: If prior to July 1, 2019, a county commission had voted against 10:00 a.m. on premises sale, then notwithstanding this section, on premises sales of nonintoxicating beer, wine, and alcoholic liquors shall not begin until 1:00 p.m.

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

Engrossed Committee Substitute for Senate Bill 561, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger and Roberts—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 S. B. 561) passed with its House of Delegates amended title.

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

The Senate again proceeded to the eighth order of business.

Eng. House Bill 2474, Relating to a reserving methodology for health insurance and annuity contracts.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2474) 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 2761, Modernizing the self-service storage lien law.

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

Senators Azinger and Tarr respectively requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Azinger and Tarr would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Baldwin, Facemire, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2761) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Baldwin, Facemire, and Romano—3.

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 H. B. 2761) takes effect July 1, 2019.

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 2618, Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2618) 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 2618—A Bill to amend and reenact §55-7J-1 of the Code of West Virginia, 1931, as amended, relating to amending the definition of the terms “financial exploitation” or “financially exploit” to include the use of undue influence resulting in diminishment of assets of an elderly person, protected person or incapacitated adult; authorizing cause of action in magistrate and circuit court for financial exploitation due to intentional misappropriation or misuse of funds or undue influence against an elderly person, protected person or incapacitated adult; temporary relief may be granted without notice to the respondent; providing for issuance of protective orders; providing protective orders issued by a magistrate court are temporary; requiring magistrate court to transfer matter to circuit court upon issuance of a temporary protective order; setting time frame for hearing; and authorizing circuit court to issue a permanent protective order under stated circumstances.

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 2673, Creating the Oil and Gas Abandoned Well Plugging Fund.

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

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Azinger—1.

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. 2673) passed.

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

Eng. Com. Sub for House Bill 2673—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-6-29a, all relating to creating the Oil and Gas Abandoned Well Plugging Fund for use by the West Virginia Department of Environmental Protection to plug abandoned oil and gas wells without a responsible operator; providing for administration of the fund; requiring severance tax to be deposited in the fund; providing specific purposes and limitations for use of the fund; modifying imposition of the tax on the privilege of severing natural gas or oil by marginal oil and gas wells; providing exemptions from the severance tax; deleting a subsection of the code which expired by its own terms; providing reporting requirements for the Oil and Gas Reclamation Fund and the Oil and Gas Abandoned Well Plugging Fund; providing rulemaking authority; and providing a short 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 2779, Providing that proceeds from certain oil and gas wells to persons whose name or address are unknown are to be kept in a special fund.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2779 pass?”

On this question, the yeas were: Rucker, Tarr, Trump, and Carmichael (Mr. President)—4.

The nays were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Unger, Weld, and Woelfel—30.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2779) rejected.

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

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 1:56 p.m., the Senate recessed until 2:45 p.m. today.

The Senate reconvened at 3:17 p.m. today.

On motion of Senator Takubo, the special order of business set for this position on the calendar (*consideration of executive nominations*) was postponed and made a special order of business at 5 p.m. today.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 3:20 p.m. today:

Eng. Com. Sub. for Senate Bill 241, Permitting county court clerks scan certain documents in electronic form.

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 424, Supplemental appropriation to Civil Contingent Fund.

And has amended same.

And,

Senate Bill 435, Supplemental appropriation to State Department of Education and Vocational Division.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, Senate Bill 424 contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

The bill (S. B. 424) was then read a second time.

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

On page two, line twenty-seven, by striking out "28,000,000" and inserting in lieu thereof "10,000,000".

The bill, as amended, was ordered to engrossment and third reading.

Engrossed Senate Bill 424 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 424) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. S. B. 424) takes effect from passage.

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

At the request of Senator Takubo, unanimous consent being granted, Senate Bill 435 contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

The bill (S. B. 435) was then read a second time.

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

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

TITLE II – APPROPRIATIONS.

Section. 1. Appropriations from general revenue.

DEPARTMENT OF EDUCATION

43 – State Board of Education –

State Department of Education

(WV Code Chapter 18 and 18A)

Fund 0313 FY 2019 Org 0402

	General
Appro-	Revenue
priation	Fund

36 Communities in Schools (R)..... 78103 3,000,000

Any unexpended balance remaining in the appropriation for Communities in Schools (fund 0313, appropriation 78103) at the close of the fiscal year 2019 is hereby reappropriated for expenditure during the fiscal year 2020.

And, That the total appropriation for the fiscal year ending June 30, 2019, to fund 0390, fiscal year 2019, organization 0402, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section. 1. Appropriations from general revenue.

DEPARTMENT OF EDUCATION

46 – State Board of Education –

Vocational Division

(WV Code Chapter 18 and 18A)

Fund 0390 FY 2019 Org 0402

7a Jim’s Dream (R)..... 14901 \$ 9,700,000

From the above appropriation for Jim’s Dream (fund 0390, appropriation 14901), funds are to be used for rehabilitation and workforce readiness transition programs.

Any unexpended balance remaining in the appropriation for Jim’s Dream (fund 0390, appropriation 14901) at the close of the fiscal year 2019 is hereby reappropriated for expenditure during the fiscal year 2020.

The bill (S. B. 435), as amended, was ordered to engrossment and third reading.

Engrossed Senate Bill 435 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 435) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. S. B. 435) takes effect from passage.

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

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

On motion of Senator Takubo, 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, after the enacting clause, by inserting a new section, designated section six-b, to read as follows:

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§ 17-2A-6b. Country roads accountability and transparency.

(a) The Legislature finds that taxpayers should be able to easily access the details of how the state is spending their tax dollars to build and repair state and public roads. The taxpayers should also be able to easily access and compare the budgeted moneys and the performance results that are achieved for those expenditures. It is the intent of the Legislature, therefore, to direct the Auditor to create and maintain a searchable website detailing where, how much, and from what source the taxpayer moneys in state government are expended for payment to third party vendors for state roads.

(b) No later than July 1, 2019, the Auditor shall develop and make publicly available a searchable website containing, at a minimum, the following information for a given fiscal year, and the three immediately preceding fiscal years, to the extent that the commissioner has the ability to provide the information to the Auditor:

(1) The project number or name for each state road in which moneys have been expended to pay vendors to build, repair or maintain a state road;

(2) The county location for each such project;

(3) The funding source for a given funding action or expenditure to pay vendors;

(4) The budget program or activity related to a given funding action or expenditure;

(5) The name and the address, principal location or residence of the vendors receiving payment from a given funding action or expenditure; and

(6) Additional information as to the funding action or expenditure the Auditor considers valuable for the public.

(c) For the purposes of this section:

(1) "Auditor" means the State Auditor of West Virginia, or his or her designee appointed to perform the service;

(2) "Funding action or expenditure" includes details on the type of spending to vendors, including, but not limited to, grants, contracts, and any expenditure from the state road fund, federal funds, special revenue funds, including any civil contingency or similar fund. Where possible, a hyperlink to the actual grants or contracts shall be provided;

(3) "Funding source" means the state account from which the funding action or expenditure is appropriated;

(4) "Vendor" means any person or entity that is authorized by the State of West Virginia to supply the Division of Highways with commodities or services;

(5) "Searchable website" means a website that allows the public at no cost to search and aggregate information regarding the state's budget and spending for state roads.

(d) The searchable website shall be updated periodically as new data becomes available and is submitted by the commissioner to the Auditor. The commissioner shall provide to the Auditor, in a format specified by the Auditor, all the data that is required to be included in the searchable website no later than 30 days after the data becomes available to the agency. The Auditor shall provide guidance and specifications to the commissioner to promote compliance with this section. The commissioner and the Auditor shall communicate and cooperate to develop methodologies for the efficient transfer of the data, including, but not limited to, methodologies to convert noncompatible electronic formats of data into data formats that can be reasonably converted and transferred to the website.

(e) The Auditor and the commissioner shall each report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Department of Transportation Accountability as to the status of the website and shall advise the Committee and the Commission of any issues related to the transfer and receipt of the information from the commissioner to the Auditor in a timely manner as required in this section. The reports shall be submitted at the end of each quarter for the 2019-2020 fiscal year; and annually thereafter, beginning December 1, 2020, and on December 1 of each year thereafter, until the Joint Committee finds that the annual reports are no longer required.;

On page one, section eleven, lines one through six, by striking out all of subsections (a) and (b) and inserting in lieu thereof the following:

There is created a special subaccount in the State Road Fund, designated the Special Road Repair Fund, to be expended solely for the purposes specified in §17-30-1 et seq. of this code for the maintenance and repair of the state's roads and highways.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 522—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6b; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5, all relating to enhancing maintenance and repair of the state's roads and highways generally; establishing roads accountability and transparency; directing the State Auditor to develop and maintain a searchable website of funding actions and expenditures relating state and public roads; setting forth the minimum content to be contained in the website; directing the Commissioner of Highways to provide information and data to the State Auditor; requiring an annual update to the Joint Committee on Government and Finance; creating the Special Road Repair Fund as a subaccount of the State Road Fund; creating the Enhanced Road Repair and Maintenance Program; stating legislative finding and purpose of program; requiring Division of Highways county supervisors consult with county commissions and legislators to submit project requests to the Division of Highways; setting forth a funding formula; setting forth requirements concerning bidding, vendors, and contracts with private vendors; specifying uses of Special Road Repair Fund; defining terms; providing requirements for Commissioner of Highways and districts; requiring for rulemaking; and requiring reporting by Division of Highways and Legislative Auditor.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 522) 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.

The Senate again proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2807, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

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

Senator Boso requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is an owner of a Subchapter S corporation.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2807) passed.

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

Eng. Com. Sub. for House Bill 2807—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j; and to amend and reenact §11-21-17a of said code, all relating to creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations or members of a limited liability company engaged in business as a financial organization in this state, similar to the modification that presently exists in the code for financial organizations organized as C corporations; setting forth apportionment rules for certain financial organizations; specifying special gross receipts factor; and providing for retroactive effective date.

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

Eng. House Bill 2968, Adding remote service unit to the definition of customer bank communications terminals.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a director of a community bank.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2968) passed.

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

Eng. House Bill 2968—A Bill to amend and reenact §31A-8-12b of the Code of West Virginia, 1931, as amended, relating to adding remote service units to the definition of customer bank

communication terminal; defining remote service unit; and allowing national banks to operate remote service units in this state pursuant to federal regulation.

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 2947, Relating generally to telemedicine prescription practice requirements and exceptions.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2947) 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 3131, Relating to providing salary adjustments to employees of the Department of Health and Human Resources.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3131) passed.

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

Eng. Com. Sub. for House Bill 3131—A Bill to amend and reenact §5-5-4a of the Code of West Virginia, as amended, all relating to employees of the Department of Health and Human Resources; providing that the Department of Health and Human Resources shall develop a special merit-based system for specified employees at state-operated acute care, long-term care,

psychiatric care, clinical, and medical facilities; providing for an effective date; providing that provisions of the West Virginia Public Employees Grievance Act apply to employees of the special merit-based system; providing that the Department of Health and Human Resources may conduct a marketplace analysis; and providing for emergency rulemaking.

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 2674, Creating a student loan repayment program for a mental health provider.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2674) passed.

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

Eng. Com. Sub. for House Bill 2674—A Bill to amend and reenact §18C-3-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated, §18C-3-5, all relating to establishing health professionals' student loan programs; providing legislative findings and purpose; establishing a loan repayment program for mental health providers; providing for in-state tuition rates to out-of-state medical students who agree to practice for a specific time within West Virginia; establishing the program eligibility requirements; setting forth repayment schedules; creating application procedures; establishing violations; providing for civil penalties for the failure to complete the required service; creating a special revenue accounts; and providing for legislative rule-making authority.

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 2770, Fairness in Cost-Sharing Calculation Act.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2770) passed.

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

Eng. Com. Sub. for House Bill 2770—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4t; to amend said code by adding thereto a new section, designated §33-16-3ee; to amend said code by adding thereto a new section, designated §33-24-7t; to amend said code by adding thereto a new section, designated §33-25-8q; and to amend said code by adding thereto a new section, designated §33-25A-8t, all relating to establishing the Fairness in Cost-Sharing Calculation Act; providing for definitions; establishing health plan cost sharing calculations; establishing pharmacy benefits cost sharing calculations; providing for an effective date; and providing for rule-making authority.

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 2933, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2933) passed.

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

Eng. Com. Sub. for House Bill 2933—A Bill to amend and reenact §61-8D-3 and §61-8D-4 of the Code of West Virginia, 1931, as amended, relating to modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury and child abuse or neglect creating risk of injury.

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 2540, Prohibiting the waste of game animals, game birds or game fish.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2540 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—22.

The nays were: Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

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. 2540) passed.

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

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

Eng. Com. Sub. for House Bill 2540—A Bill to amend the Code of West Virginia, 1931, as amended, by thereto a new section, designated §20-2-5i, relating to prohibiting the waste of any edible portion of big game or game fish; making it unlawful to take any big game and detach or remove the head, hide, antlers, tusks, paws, claws, gallbladder, teeth, beards, or spurs only and leave the carcass to waste; setting forth exceptions; and establishing criminal penalties for violations.

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

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

The Senate again proceeded to the eighth order of business.

Eng. House Bill 3139, Relating to funding of the Public Employees Health Insurance Program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney,

Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 3139) passed.

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

Eng. House Bill 3139—A Bill to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11B-2-15a, all relating generally to funding of Public Employees Health Insurance Program; requiring the finance board to maintain a reserve fund at actuarially recommended amounts of at least 10 percent of plan costs; removing requirement to transfer moneys resulting from plan savings into reserve fund; removing requirement that excess funds be transferred to West Virginia Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fund as special, nonexpiring, interest-bearing revenue account in the State Treasury; providing for the administration of the fund, including investment of funds, transfer of funds, and purposes for which the fund can be used; and authorizing the promulgation of emergency and legislative rules.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. H. B. 3139) takes effect from passage.

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

Eng. House Bill 2665, Supplemental appropriation for PEIA Rainy Day Fee.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. H. B. 2665) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. H. B. 2665) 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 2479, Corporate Governance Annual Disclosure Act.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2479) passed with its title.

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

Eng. House Bill 2856, Relating to the administration of the operating fund of the securities division of the Auditor's office.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney,

Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2856) 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 2945, Relating to vendors paying a single annual fee for a permit issued by a local health department.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2945) 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 2490, Preventing proposing or enforcing rules that prevent recreational water facilities from making necessary upgrades.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2490 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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. 2490) passed with its title.

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

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

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendment to the House of Delegates amendment, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for Senate Bill 405, Increasing limit on additional expenses incurred in preparing notice list for redemption.

On motion of Senator Takubo, the Senate refused to recede from its amendment to the House of Delegates amendment to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Boso, Sypolt, and Palumbo.

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 that that body had refused to recede from its amendments, and requested 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 Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

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

Delegates Capito, Foster, and Lovejoy.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

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

Senators Takubo, Boso, and Woelfel.

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 that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

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

Delegates Harshbarger, Phillips, and Hartman.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

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

Senators Weld, Sypolt, and Jeffries.

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

The Senate proceeded to the sixth order of business.

Senators Palumbo, Plymale, Takubo, Stollings, Beach, and Jeffries offered the following resolution:

Senate Concurrent Resolution 63—Requesting the Division of Highways name bridge number 20-60-36.23 (20A160), locally known as U.S. Route 60 Cedar Grove Overpass 3565 Bridge, carrying U. S. Route 60 over County Route 81 in Kanawha County, the “U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders Jr., Memorial Bridge”.

Whereas, Earl Russell Cobb, known throughout his life by his classmates and friends as Russell, was born in Ward, West Virginia, on October 24, 1946, to Carl and Mabel Cobb. He loved hunting squirrel and deer near the mountains of Ward. Earl Russell Cobb attended Ward Elementary and graduated from Cedar Grove High School in the class of 1966; and

Whereas, Earl Russell Cobb entered the U. S. Army on April 17, 1967 and trained in Light Infantry (MOS 11B20), and was then assigned to serve as a Private First Class in Company A, 22nd Infantry Regiment, 25th Infantry Division; and

Whereas, PFC Earl Russell Cobb was declared missing in action and ultimately declared deceased on September 4, 1967. His casualty occurred in or around the Tau Ninh Province of South Vietnam near the Cambodian border due to “. . . hostile, died while missing due to multiple fragmentation wounds.”; and

Whereas, PFC Earl Russell Cobb was killed in action on September 4, 1967, just five months into his tour of duty and is now listed on panel 25E, line 96, of the Vietnam Veterans Memorial in Washington, D.C.; and

Whereas, Carl Bradford “Punkin” Goodson was born on October 14, 1948, and was the son of Vernon and Dortha Goodson and the brother of Vernon Goodson Jr. of Cedar Grove, West Virginia. He lived beside Cedar Grove High and the Little League baseball field where he honed his skills that would enable him to play high school baseball for three years; and

Whereas, Carl Bradford Goodson graduated from Cedar Grove High School in the class of 1966 and was a member of the Church of God at Ward, West Virginia; and

Whereas, Carl Bradford Goodson entered the U. S. Army on October 28, 1969 and graduated basic and AIT as a specialist fourth class. He served in Charlie Company, 2nd Battalion, 506th Infantry Battalion, 101st Airborne Division, 1969 and 1970, in the Republic of Vietnam; and

Whereas, SPC4 Carl Bradford Goodson was killed in action on April 6, 1970, just five months into his tour of duty and is now listed on panel 12W, line 101, of the Vietnam Veterans Memorial in Washington, D.C., and is buried in the Ward Cemetery at Ward, West Virginia; and

Whereas, On September 29, 2018, a memorial service was held for SPC4 Carl Bradford Goodson at his graveside at the Ward Cemetery near Cedar Grove, attended by several of his fellow soldiers from his army unit; and

Whereas, On this occasion, one of his comrades in arms, Gary Gilliam, recounted this about Carl and the circumstances of his death on April 6, 1970: “He was a brave young soldier who died serving the country he loved. Carl was part of the battle of Firebase Ripcord. The elements of this battle began as the 101st Airborne Division began the effort to reopen the strategic firebase (Ripcord) located overlooking the infamous A Shau Valley in March and ended July 22,” Gilliam said. “With almost continual daily contact throughout the campaign, on April 6 on Hill 927, 25 miles west of the city of Hue, Carl, along with his brothers Larry Christmas and Steve Steward of Charlie Company, fought bravely to hold their position to protect Firebase Ripcord against an overwhelming force of the North Vietnamese Army. After two brutal hours of battle, these three brave soldiers gave their lives to save the lives of their brothers of Charlie Company.”; and

Whereas, George Thomas Saunders Jr., was born on February 28, 1942, and grew up in the community of Cedar Grove, West Virginia; and

Whereas, George T. Saunders, Jr., the son of George T. Saunders, Sr., and Carol Saunders of Cedar Grove, West Virginia, on February 2, 1942. His friends and classmates called him “G.T.”; and

Whereas, George T. Saunders, Jr., graduated from Cedar Grove High School in the class of 1959. His sisters Pam and Diane said that since early childhood, he wanted a career in the U. S. military; and

Whereas, George T. Saunders, Jr., entered the U. S. Army straight out of high school and was trained for Military Police (MOS 13B), and attached to the 1st Infantry Division, 1st Military Police Company; and

Whereas, George T. Saunders Jr., joined the U. S. Army, served six years, and attained the rank of Staff Sergeant; and

Whereas, SSGT George T. Saunders, Jr., was posted to the 1st Military Police Company, 1st Infantry Division in the Republic of Vietnam in 1965; and

Whereas, On October 31, 1965, SSGT George T. Saunders Jr., was on forward scouting patrol when he experienced a traumatic event that resulted in his death. His life was taken in the South Vietnamese Province of Thua Thien. The official circumstances of his death were: SSGT Saunders died of hostile action “explosive device”; and

Whereas, SSGT George T. Saunders, Jr., was killed in hostile fire on October 31, 1965, less than two weeks into his tour of duty in Vietnam and is now listed on panel 3E, line 10, of the Vietnam Veterans Memorial in Washington, D.C., and is buried at Woodland Cemetery in Cedar Grove, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., and their sacrifice for their state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-60-36.23 (20A160), locally known as U. S. Route 60 Cedar Grove Overpass 3565 Bridge, carrying U. S. Route 60 over County Route 81 in Kanawha County, the “U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders Jr., Memorial Bridge” and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders Jr., Memorial Bridge”; and, be it

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

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration and referred to the Committee on Rules.

Senators Palumbo, Plymale, Jeffries, Stollings, Beach, and Takubo offered the following resolution:

Senate Concurrent Resolution 64—Requesting the Division of Highways name bridge number 20-73/5-0.55, locally known as Point Lick Bridge, carrying Route 73/5 over Campbells Creek in Kanawha County, the “U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge”.

Whereas, Larry Scott Kennedy was born in Charleston, West Virginia, May 15, 1947, and died March 6, 1968, in Khe Sanh, Vietnam. He was the first child and only son born to Clyde J. Kennedy and Janet Trigg Kennedy; and

Whereas, Larry Scott Kennedy attended New Lexington High School in New Lexington, Ohio, was senior class president at New Lexington High School, and was deeply admired by his peers. He was on the football team at New Lexington High School and helped carry his team to victory at the Muskingham Valley Championship; and

Whereas, Larry Scott Kennedy helped his relatives build a home for his family at Point Lick on Campbells Creek. He treasured nature and enjoyed fishing, trapping, and hunting with his parents and his dogs; and

Whereas, Larry Scott Kennedy attended West Virginia University for one year and aspired to finish college to become a forester after he returned home from service; and

Whereas, Larry Scott Kennedy joined the U. S. Marine Corps and departed for Parris Island in July 1967 and was sent to AIT Camp Lejeune in North Carolina thereafter where he served as a Forward Observer for the Artillery; and

Whereas, CPL Larry Scott Kennedy was sent to Camp Pendleton in California, and from there he was sent to Khe Sanh, Vietnam, along with 6,000 fellow Marines. He fell ill for three weeks in Vietnam and he valiantly persevered through his illness; he worked alongside the Bru Montagnards, finding brotherhood through a love of the mountains and fighting for peace; and

Whereas, CPL Larry Scott Kennedy was wounded on the hand by shrapnel that killed a Marine nearby. He was subsequently injured with a damaging concussion and internal bleeding after being launched 30 feet into the air; he received two Purple Hearts during his service; and

Whereas, During CPL Larry Scott Kennedy's recovery at a hospital in Da Nang, his best friend George L. Elliott III, diligently remained by his side. They decided to return to Khe Sanh together because they knew every capable man was needed. The plane that carried CPL Larry Scott Kennedy and George L. Elliott III, back to Khe Sanh was shot down by enemy forces and everyone aboard was pronounced dead or missing in action; and

Whereas, CPL Larry Scott Kennedy was killed in action on March 6, 1968, and now rests at the Jefferson Barracks National Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Larry Scott Kennedy's and his sacrifice to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-73/5-0.55, locally known as Point Lick Bridge, carrying Route 73/5 over Campbells Creek in Kanawha county, the "U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge"; and, be it

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

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration and referred to the Committee on Rules.

Senators Baldwin, Jeffries, Stollings, Beach, and Hamilton offered the following resolution:

Senate Resolution 76—Urging the Environmental Protection Agency, West Virginia Department of Environmental Protection, West Virginia Bureau for Public Health, Agency for Toxic Substances and Disease Registry, and Centers for Disease Control to assist Minden, West Virginia, residents with both relocation assistance and specialized medical treatment as a result of their long-term exposure to polychlorinated biphenyl, dioxins, and dibenzofurans.

Whereas, Polychlorinated biphenyl (PCB) is a toxic substance known to cause harm to human health and the health of the environment; and

Whereas, PCB's were burned in Minden, West Virginia; and

Whereas, When PCB's are burned, they can form dioxins and dibenzofurans which are toxic chemicals; and

Whereas, It has been confirmed by Environmental Protection Agency (EPA) that PCB contamination has spread throughout Minden, West Virginia; and

Whereas, The EPA has proposed Minden, West Virginia, for the National Priorities List of Superfund sites, a designation reserved for the most toxic sites in the United States; and

Whereas, Polychlorinated biphenyl contamination has been discovered on residential properties in Minden, West Virginia; and

Whereas, Frequent flooding spreads PCB contamination further throughout Minden, West Virginia; and

Whereas, The true extent of PCB contamination has not yet been discovered; and

Whereas, The community members in Minden, West Virginia, believe that PCB contamination is a contributing factor to alarming rates of cancer amongst other illnesses; and

Whereas, There are many Minden, West Virginia, residents that wish to be relocated so that they can abstain from the future risks to their health; and

Whereas, Minden, West Virginia, residents do not have access to medical services that are specific to PCB exposure, yet these resources exist in society; and

Whereas, The presence of PCB contamination is reducing property values in Minden, West Virginia, which decreases the ability of residents to move according to their will; and

Whereas, The EPA, WVDEP, WVBPH, ATSDR, and CDC are not readily willing to relocate Minden, West Virginia, residents who wish to be relocated; and

Whereas, Minden, West Virginia, residents have lived amongst PCB contamination for many decades; and

Whereas, Chronic and multigenerational exposure to PCB's across many decades has not been adequately studied from a public health perspective by CDC, ATSDR, and WVBPH; and

Whereas, Exposure to PCB has been correlated with brain cancer, breast cancer, gastrointestinal cancers, liver cancer, lung cancer, malignant melanoma, non-Hodgkin's lymphoma, pancreatic cancer, prostate cancer, thyroid cancer, nonmelanoma skin cancer, recurrent infections, skin infections, respiratory infections, harm to the immune system, lowered IQ, abnormal reflexes, greater response to stress, less habituation to repeated stimuli, modified Brazelton Neonatal Behavioral Assessment Scale results, memory reduction, anxiety, depression, thyroid disease, reduced testosterone in males, longer menstrual cycles, reduced sperm mobility, endometriosis, earlier menarche in young women, elevated plasma triglyceride

levels, hypertension, ischemic heart disease, myocardial infarction, diastolic blood pressure, systolic blood pressure, diabetes, liver disease, asthma, arthritis, low birthweight, shortened gestation periods, chloracne, porphyria cutanea tarda, soft tissue sarcoma, eczema, benign fatty tumors, epidermoid cysts, rash not otherwise specified, dyschromia, skin sensitivity, and NMSCs, rare diseases, and possibly more illnesses yet to be discovered; and

Whereas, It is inhumane to expect people to continue to live in an environment that can harm them; and

Whereas, The concerns that Minden, West Virginia, residents have about their health while living in Minden, West Virginia, have merit; and

Whereas, The EPA has failed to remediate Minden, West Virginia, after three separate clean-up attempts; and

Whereas, Future efforts of EPA and WVDEP will be focusing on cleanup of Minden, West Virginia; and

Whereas, The long term nature of remediation will not adequately meet all of the needs of Minden, West Virginia, residents; and

Whereas, Relocation and long term specialized health resources have been deemed an essential need by Minden-led community groups since the 1980's; therefore, be it

Resolved by Legislature of West Virginia:

That the Legislature hereby urges the Environmental Protection Agency, West Virginia Department of Environmental Protection, West Virginia Bureau for Public Health, Agency for Toxic Substances and Disease Registry, and Centers for Disease Control to assist Minden, West Virginia, residents with both relocation assistance and specialized medical treatment as a result of their long-term exposure to polychlorinated biphenyl, dioxins, and dibenzofurans; and, be it

Further Resolved, That Minden, West Virginia, residents who need life-long access to specialized health care resources that are familiar with the health consequences of PCB, dioxin, and dibenzofuran exposure be provided the assistance to obtain such medical care; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Administrator of the Environmental Protection Agency, Cabinet Secretary of the West Virginia Department of Environmental Protection, Commissioner for the West Virginia Bureau for Public Health, Administrator of the Agency for Toxic Substances and Disease Registry, and Director of the Centers for Disease Control.

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

Senators Palumbo, Plymale, Jeffries, Beach, Hardesty, Stollings, Hamilton, Takubo, and Swope offered the following resolution:

Senate Resolution 77—Urging the President of the United States, Donald J. Trump, to direct the Federal Emergency Management Administration to complete the work necessary to replace Clendenin Elementary and Herbert Hoover High School.

Whereas, On June 23, 2016, floods ravaged communities in West Virginia, destroying schools, homes, and infrastructure; and

Whereas, The federal government declared a state of emergency for West Virginia counties affected by those floods, qualifying those counties for emergency funds; and

Whereas, The Federal Emergency Management Administration must complete an Environmental Assessment before the school district can move forward in purchasing property and building schools replacing those damaged; and

Whereas, Nearly three years later, the rebuilding of Clendenin Elementary and Herbert Hoover High School has yet to commence, and the opening of the new schools lacks a definite timetable; and

Whereas, The students of Clendenin Elementary and Herbert Hoover High School have learned in temporary classrooms for the 2017, 2018, and 2019 school years; and

Whereas, Disaster recovery is not complete until community institutions have been rebuilt; and

Whereas, West Virginia has no more precious resource than its children; and

Whereas, Every child in West Virginia deserves to learn in a safe and well-resourced building; therefore, be it

Resolved by the Senate:

That the Senate hereby urges the President of the United States, Donald J. Trump, to direct the Federal Emergency Management Administration to complete the work necessary to replace Clendenin Elementary and Herbert Hoover High School; and, be it

Further Resolved, That the Senate asks the Honorable Donald J. Trump, President of the United States, to direct the Federal Emergency Management Administration to do its duty by helping West Virginia communities rebuild the schools affected by the 2016 floods; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Donald J. Trump, President of the United States of America; to the Honorable Joe Manchin III, United States Senator; to the Honorable Shelley Moore Capito, United States Senator; and to the Honorable Brock T. Long, Administrator of the Federal Emergency Management Administration.

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

At the request of Senator Maynard, and by unanimous consent, Senator Maynard offered the following resolution from the floor:

Senate Concurrent Resolution 65—Requesting the Joint Committee on Government and Finance study the proposal of allowing retailers to pay sales tax for the consumer as a method of advertisement.

Whereas, Retailers are currently prohibited from absorbing sales tax on consumer transactions; and

Whereas, Permitting retailers to absorb sales tax on consumer purchases allows small businesses to create unique discounts that would draw customers; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the proposal of allowing retailers to pay sales tax for the consumer as a method of advertisement; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

At the request of Senator Maynard, 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, the same was put and prevailed.

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

At the request of Senator Sypolt, and by unanimous consent, Senators Sypolt, Clements, Swope, Beach, Boley, Boso, Jeffries, Mann, Plymale, Roberts, Azinger, Baldwin, Blair, Carmichael (Mr. President), Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Lindsay, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Takubo, Tarr, Trump, Unger, Weld, and Woelfel offered the following resolution from the floor:

Senate Resolution 78—Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia.

Whereas, Federal law currently imposes a maximum gross vehicle weight of 80,000 pounds on interstate highways, without any tolerance, and with axle weight restrictions and the bridge formula often reducing such maximum weight; and

Whereas, West Virginia also has an 80,000-pound maximum gross vehicle weight limit, but permits a 10-percent tolerance, raising the permissible maximum weight to 88,000 pounds; and

Whereas, Vehicles transporting commodities through West Virginia often reach our state on interstate highways, but leave the interstate highways system and switch to West Virginia's local roads, taking advantage of the higher weight limit on such routes; and

Whereas, Such practice increases traffic on West Virginia's mountainous country roads, raises safety concerns, and limits economic avenues; and

Whereas, Interstates could safely support the same weight restrictions as those on U.S. routes in West Virginia given that the design standards used for both systems are identical and the weight increase would be minimal; and

Whereas, The West Virginia Department of Transportation, Division of Highways, is poised to address any questions Congress or the U.S. Department of Transportation, Federal Highway Administration, may have to demonstrate the feasibility of this request; and

Whereas, Providing an exception to the existing weight limits and restrictions in Title 23 of the United States Code, including the bridge formula, for vehicles operating on interstate highways in West Virginia will allow more vehicles to travel the safer interstate highways and expand economic access throughout West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That Congress is urged to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in 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 President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation.

At the request of Senator Sypolt, 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 Stollings demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 78) adopted.

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

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 9, 2019, he had approved **Enr. House Bill 2036** and **Enr. Committee Substitute for House Bill 2821**.

The Senate again proceeded to the fifth order of business.

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 295, Relating to crimes against public justice.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 295 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House of Delegates, by striking out everything after the enacting clause, and that the Senate and House agree to an amendment as follows:

ARTICLE 3. COURTS IN GENERAL.

§51-3-19. Courthouse security officers; arrest authority; concealed-carry authority; requirements for participation; authorization to carry firearms concealed consistent with federal law.

(a) In furtherance of enhanced courthouse security for court personnel, litigants, and the general public, courthouse security officers charged with effecting courthouse security may arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure occurring within a courthouse while the courthouse security officer is engaged in his or her official duties;

(b) For purposes of subsection (a) of this section, the arrest authority of courthouse security officers is consistent with that of a county deputy sheriff;

(c) In any judicial circuit where there is an order in effect authorizing courthouse security officers to carry a firearm, the circuit court may also authorize, consistent with the provisions of this section, qualifying courthouse security officers to carry a concealed firearm for self-defense purposes pursuant to 18 U.S.C. § 926B, upon the following criteria being met:

(1) The supervising authority of the courthouse security officer shall require courthouse security officers desiring to participate to regularly qualify in the use of firearms with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the courthouse security officers are employed;

(2) The supervising authority of the courthouse security officers shall issue photographic identification and certification cards which identify the courthouse security officers as law-

enforcement employees of the supervising entity pursuant to the provisions of §30-29-12 of this code;

(3) Any policy instituted pursuant to this section shall include provisions that:

(A) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of his or her authority to participate in the program;

(B) Preclude from participation persons prohibited by federal or State law from possessing or receiving a firearm; and

(C) Prohibit persons from carrying a firearm pursuant to this subsection while in an impaired State as defined in §17C-5-2 of this code; and

(4) A courthouse security officer who participates in a program authorized by this section is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition for use when not engaged in his or her official duties.

(d) It is the intent of the Legislature in enacting this section during the 2019 regular session of the Legislature that active courthouse security personnel meeting all the requirements of this section to also meet the requirements of the federal Law-Enforcement Officers Safety Act, 18 U.S.C. § 926B.

(e) The provisions of this section shall become effective July 1, 2020.

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; penalties; definitions.

(a) A person who by threats, menaces, acts or otherwise forcibly or illegally hinders or obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer, ~~or~~ parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(b) A person who intentionally disarms or attempts to disarm a law-enforcement officer, correctional officer, probation officer, ~~or~~ parole officer, courthouse security officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years.

(c) A person who, with intent to impede or obstruct a law-enforcement officer, the State Fire Marshal or a full-time deputy or assistant fire marshal in the conduct of an investigation of a misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or confined in jail for five days, or both fined and confined. The provisions of this section do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under

investigation. Statements made by the person under investigation may not be used as the basis for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer" does not include a watchman, a member of the West Virginia State Police or college security personnel who is not a certified law-enforcement officer.

(d) A person who intentionally flees or attempts to flee by any means other than the use of a vehicle from a law-enforcement officer, probation officer, ~~or~~ parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain the person, and who knows or reasonably believes that the officer is attempting to arrest or lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be confined in jail not more than one year.

(f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who operates the vehicle in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be imprisoned in a state correctional facility not less than one nor more than five years.

(g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes damage to the real or personal property of a person during or resulting from his or her flight, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 and shall be confined in jail for not less than six months nor more than one year.

(h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than ten years.

(i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes death to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five nor more than fifteen years. A person imprisoned pursuant to this subsection is not eligible for parole prior to having served a minimum of three years of his or her sentence or the minimum period required by section thirteen, article twelve, chapter sixty-two of this code, whichever is greater.

(j) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer or parole officer acting in his or her official capacity after the officer has

given a clear visual or audible signal directing the person to stop, and who is under the influence of alcohol, controlled substances or drugs, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than ten years.

(k) For purposes of this section, the term “vehicle” includes any motor vehicle, motorcycle, motorboat, all-terrain vehicle or snowmobile as those terms are defined in section one, article one, chapter seventeen-a of this code, whether or not it is being operated on a public highway at the time and whether or not it is licensed by the state.

(l) For purposes of this section, the terms “flee”, “fleeing” and “flight” do not include a person’s reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement officer to maintain appropriate surveillance, for the purpose of complying with the officer’s direction to stop.

(m) The revisions to subsections (e), (f), (g) and (h) of this section enacted during the regular session of the 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

(n) (1) No person, with the intent to purposefully deprive another person of emergency services, may interfere with or prevent another person from making an emergency communication, which a reasonable person would consider necessary under the circumstances, to law-enforcement, fire, or emergency medical service personnel.

(2) For the purpose of this subsection, the term “interfere with or prevent” includes, but is not limited to, seizing, concealing, obstructing access to or disabling or disconnecting a telephone, telephone line or equipment or other communication device.

(3) For the purpose of this subsection, the term “emergency communication” means communication to transmit warnings or other information pertaining to a crime, fire, accident, power outage, disaster or risk of injury or damage to a person or property.

(4) A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than one day nor more than one year or shall be fined not less than \$250 nor more than \$2,000, or both fined and confined.

(5) A person who is convicted of a second offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months nor more than one year or fined not less than \$500 nor more than \$3,000, or both fined and confined.

(6) A person who is convicted of a third or subsequent offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than six months nor more than one year or fined not less than \$500 nor more than \$4,000, or both fined and confined.

(7) In determining the number of prior convictions for purposes of imposing punishment under this subsection, the court shall disregard all such prior convictions occurring more than ten years prior to the offense in question.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title as follows:

Eng. Com. Sub. for Senate Bill 295—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-19, and to amend and reenact §61-5-7 of said code relating to granting courthouse security officers arrest powers under certain circumstances; authorizing certain West Virginia courthouse security officers to carry concealed

firearms while off duty with court approval; setting forth firearm training and qualification requirements; requiring supervising authority to issue photo identification and certification cards; specifying policy content; stating legislative intent that the new code section be consistent with the federal Law-Enforcement Officers Safety Act; establishing an effective date of July 1, 2020; criminalizing the obstruction of a courthouse security officer, correctional officer, and certain Fire Marshal's office personnel while they are acting in their official capacities; criminalizing fleeing from a courthouse security officer, correctional officer, and certain Fire Marshal's office personnel; criminalizing the disarming or attempted disarming of courthouse security officers and certain Fire Marshal's office personnel; including the investigation of misdemeanor offenses as subject to prohibition against making false statements; criminalizing the making of materially false statements as to misdemeanor and felony investigations to the State Fire Marshal and certain Fire Marshal's office personnel; and setting criminal penalties.

Respectfully submitted,

Charles S. Trump, IV, *Chair*, Sue Cline, Richard D. Lindsay II, *Conferees on the part of the Senate*.

Ray Hollen, *Chair*, David Kelly, Rodney Miller, *Conferees on the part of the House of Delegates*.

On motions of Senator Trump, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 295, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, 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 S. B. 295) passed with its conference amended title.

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

On motion of Senator Takubo, at 4:28 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:36 p.m.

Senator Weld announced a meeting of the committee of conference as to Engrossed Senate Bill 596 (*Adjusting voluntary contribution amounts on certain DMV forms*).

Senator Boso announced a meeting of the committee of conference as to Engrossed Committee Substitute for Senate Bill 405 (*Increasing limit on additional expenses incurred in preparing notice list for redemption*).

Senator Clements announced a meeting of the Committee on Transportation and Infrastructure.

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

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor:



Jim Justice
Governor of West Virginia

March 9, 2019

The Honorable Donna Boley
Senate Confirmations Chair
Building 1, Room 206W
Charleston, West Virginia 25305

Dear Madam Chairwoman:

I am respectfully withdrawing the reappointment of Executive Nomination #9 as contained in Senate Executive Message #3, Regular Session 2019.

As always, if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

JCJ: mrp

Cc: Clerk of the Senate
Ethics Commission
Secretary of State
Senate Confirmations Chair
Shepherd University Board of Governors

Which communication was received.

The Senate again proceeded to the fourth order of business.

Senator Boley, from the Committee on Confirmations, submitted the following report, which was received:

Your Committee on Confirmations has had under consideration

Senate Executive Message 3, dated March 6, 2019, requesting confirmation by the Senate of the nominations mentioned therein. The following list of names from Executive Message 3 is submitted:

1. For Member, Ethics Commission, Lindsey C. Ashley, Pineville, Wyoming County, for the term ending June 30, 2022.

2. For Member, Blue Ridge Community and Technical College Board of Governors, Bradley J. Close, Martinsburg, Berkeley County, for the term ending June 30, 2022.

3. For Member, Blue Ridge Community and Technical College Board of Governors, Taylor James Perry, Jr., Martinsburg, Berkeley County, for the term ending June 30, 2021.

4. For Member, Blue Ridge Community and Technical College Board of Governors, Francisco S. Lanza, Frederick, Maryland, for the term ending June 30, 2022.

5. For Member, Glenville State College Board of Governors, Stephen Gandee, Jane Lew, Lewis County, for the term ending June 30, 2022.

6. For Member, Mountwest Community and Technical College Board of Governors, Jeffrey D. Goad, Barboursville, Cabell County, for the term ending June 30, 2022.

7. For Member, Mountwest Community and Technical College Board of Governors, Melvin J. Miller, Jr., Huntington, Cabell County, for the term ending June 30, 2022.

8. For Member, Mountwest Community and Technical College Board of Governors, Dinah A. Ledbetter, Ceredo, Wayne County, for the term ending June 30, 2022.

10. For Member, Shepherd University Board of Governors, Henry M. Kayes, Jr., Martinsburg, Berkeley County, for the term ending June 30, 2022.

11. For Member, West Liberty University Board of Governors, Richard A. Lucas, Wheeling, Ohio County, for the term ending June 30, 2022.

12. For Member, West Virginia State University Board of Governors, Kenneth D. Gray, Morgantown, Monongalia County, for the term ending June 30, 2022.

13. For Member, West Virginia State University Board of Governors, Mark D. Davis,

Charleston, Kanawha County, for the term ending June 30, 2022.

14. For Member, BridgeValley Community and Technical College Board of Governors, Sринi Matam, Scott Depot, Putnam County, for the term ending June 30, 2021.

15. For Member, BridgeValley Community and Technical College Board of Governors, Charles A. Kennedy, Charleston, Kanawha County, for the term ending June 30, 2021.
16. For Secretary, Department of Commerce, The Honorable C. Edward Gaunch, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.
17. For Member, West Virginia Board of Veterinary Medicine, Frank J. Cary, Kingwood, Preston County, for the term ending June 30, 2021.
18. For Member, Board of Funeral Service Examiners, John C. Valentine, Weston, Lewis County, for the term ending June 30, 2019.
19. For Executive Director, Real Estate Division, John K. McHugh, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.
20. For Secretary, Department of Administration, Allan L. McVey, St. Albans, Kanawha County, to serve at the will and pleasure of the Governor.
21. For Member, Aeronautics Commission, James W. Wallace, Beverly, Randolph County, for the term ending June 30, 2020.
22. For Member, Board of the College Prepaid Tuition and Savings Program, Chuck Smith, Charleston, Kanawha County, for the term ending June 30, 2023.
23. For Member, West Virginia University Board of Governors, Charles L. Capito, Jr., Charleston, Kanawha County, for the term ending June 30, 2022.
24. For Member, Commission on the Arts, Rebecca A. Deem, Vienna, Wood County, for the term ending June 30, 2020.
25. For Member, Environmental Quality Board, Stephen G. Capelli, Sr., Elkins, Randolph County, for the term ending June 30, 2022.
26. For Member, Tourism Commission, Barry Kadel, Charleston, Kanawha County, for the term ending May 1, 2021.
27. For Member, Shepherd University Board of Governors, James M. Cherry, Frederick, Maryland, for the term ending June 30, 2022.
28. For Member, West Virginia State University Board of Governors, James Payne, Charleston, Kanawha County, for the term ending June 30, 2021.
29. For Commissioner, Insurance Commission, James A. Dodrill, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.
30. For Member, West Virginia Board of Medicine, Angela A. Mayfield, Nitro, Kanawha County, for the term ending September 30, 2023.
31. For Member, Real Estate Commission, James S. Walker, Morgantown, Monongalia County, for the term ending June 30, 2022.

32. For Member, Board of Directors of the West Virginia United Health System, Jocelyn M. Moore, Inwood, Berkeley County, for the term ending October 15, 2022.

33. For Member, Board of Directors of the West Virginia United Health System, Hannah Hazard-Jenkins, Morgantown, Monongalia County, for the term ending October 15, 2022.

34. For Member, West Virginia Board of Osteopathic Medicine, Heather K. Jones, Chapmanville, Logan County, for the term ending June 2023.

35. For Member, Public Land Corporation Board of Directors, Carl D. Andrews, Charleston, Kanawha County, for the term ending June 30, 2021.

36. For Member, Board of Barbers and Cosmetologists, Donald Snyder, Fayetteville, Fayette County, for the term ending June 30, 2019.

37. For Member, Eastern West Virginia Community and Technical College Board of Governors, Andrew N. Blackwood, Charleston, Kanawha County, for the term ending June 30, 2021.

38. For Member, Eastern West Virginia Community and Technical College Board of Governors, Sonnee Carter, Petersburg, Grant County, for the term ending June 30, 2021.

39. For Member, West Liberty University Board of Governors, Richard H. Carter, Wheeling, Ohio County, for the term ending June 30, 2020.

40. For Member, West Liberty University Board of Governors, William C. Mercer, Wheeling, Ohio County, for the term ending June 30, 2019.

41. For Member, Aeronautics Commission, Brian Thompson, Huntington, Cabell County, for the term ending June 30, 2022.

42. For Member, Board of Directors of the West Virginia United Health System, Ellen S. Cappellanti, Charleston, Kanawha County, for the term ending October 15, 2024.

43. For Member, State Conservation Committee, Timothy VanReenen, Hillsboro, Pocahontas County, for the term ending June 30, 2022.

44. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Kim Nuckles, Charleston, Kanawha County, for the term ending January 31,

2021.

45. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Douglas Auten, Moundsville, Marshall County, for the term ending January 31, 2021.

46. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Susannah Carpenter, Charleston, Kanawha County, for the term ending January 31, 2021.

47. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Jerry Boyko, Charleston, Kanawha County, for the term ending January 31, 2021.

48. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, John Hyre, Kingwood, Preston County, for the term ending January 31, 2021.

49. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Thomas Belasco II, Bridgeport, Harrison County, for the term ending June 30, 2024.

50. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Gary D. Shaw, Fairmont, Marion County, for the term ending June 30, 2022.

51. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Johnnie E. Brown, Charleston, Kanawha County, for the term ending June 30, 2022.

52. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Richard Casto, Madison, Boone County, for the term ending June 30, 2020.

53. For Member, Family Protection Services Board, Trudi Blaylock, Charleston, Kanawha County, for the term ending June 30, 2019.

54. For Member, Family Protection Services Board, Kimberly Sanford Sizemore, Fraziers Bottom, Putnam County, for the term ending June 30, 2019.

55. For Member, West Virginia Health Care Authority, Robert J. Gray, Charleston, Kanawha County, for the term ending June 30, 2023.

56. For Member, West Virginia Agricultural Land Protection Authority Board of Trustees, Dennis Funk, Kirby, Hardy County, for the term ending June 30, 2021.

57. For Member, West Virginia Agricultural Land Protection Authority Board of Trustees, Charles M. Long, Frankford, Greenbrier County, for the term ending June 30, 2020.

58. For Member, Workforce Development Board, John Sorrenti, Weirton, Hancock County, for the term ending June 30, 2021.

59. For Member, Workforce Development Board, Penny Brown, Belington, Barbour County, for the term ending June 30, 2021.

60. For Member, Workforce Development Board, Eunice Bellinger, Montgomery, Fayette County, for the term ending June 30, 2021.

61. For Member, Workforce Development Board, Kim Barber Tieman, Charleston, Kanawha County, for the term ending June 30, 2021.

62. For Member, Workforce Development Board, Myisha Robinson, Charleston, Kanawha County, for the term ending June 30, 2020.

63. For Member, Workforce Development Board, Bryan Johnson, Kenova, Wayne County, for the term ending June 30, 2020.

64. For Member, Workforce Development Board, Michael Bombard, Fairmont, Marion County, for the term ending June 30, 2020.

65. For Member, Workforce Development Board, Michael Sirockman, Winfield, Putnam County, for the term ending June 30, 2020.

And reports the same back with the recommendation that the Senate do advise and consent to all of the nominations listed above.

Respectfully submitted,

Donna J. Boley,
Chair.

The time having arrived for the special order of business to consider the list of nominees for public office submitted by His Excellency, the Governor, the special order thereon was called by the President.

Thereupon, Senator Carmichael (Mr. President) laid before the Senate the following executive message:

Senate Executive Message 3, dated March 6, 2019 (*shown in the Senate Journal of Wednesday, March 6, 2019, pages 76 through 81, inclusive*).

Senator Boley then moved that the Senate advise and consent to all of the executive nominations referred to in the foregoing report from the Committee on Confirmations.

The question being on the adoption of Senator Boley's aforesated motion,

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and that all the executive nominations referred to in the foregoing report from the Committee on Confirmations had been confirmed.

Consideration of executive nominations having been concluded,

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

The Senate again 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. Com. Sub. for Senate Bill 30, Eliminating tax on annuity considerations collected by life insurer.

On motion of Senator Takubo, 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 fifteen, line one, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) For the taxable years beginning on or after January 1, 2021, the tax imposed by this section is discontinued.

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

Engrossed Committee Substitute for Senate Bill 30, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

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. 30) 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, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 36, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

On motion of Senator Takubo, 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-d, line sixteen, by striking out "2019" and inserting in lieu thereof "2020".

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

Following discussion,

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

Engrossed Senate Bill 36, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 36) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 36) takes effect July 1, 2019.

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, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 103, Relating generally to Public Defender Services.

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

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

On page three, section six, after line forty-two, by inserting a new subsection, designated subsection (f), to read as follows:

(f) The agency shall establish and the executive director or his or her designee shall operate a division within the agency for the purpose of prosecuting writs of habeas corpus on behalf of eligible clients in the circuit courts of the state and before the Supreme Court of Appeals. The executive director or his or her designee shall be the director of the division. The division shall represent eligible clients upon appointment by a circuit court or the Supreme Court of Appeals. A court may appoint the division to represent an eligible person unless the appointment would create a conflict of interest or the executive director has notified the court in writing that the division's existing caseload cannot be increased for a specified period of time without jeopardizing its ability to provide effective representation. In appointing the division, a court should determine whether the appointment of the division is the most effective use of the office considering the grounds and legal issues raised by the petitioner. The executive director may select and employ staff attorneys, paraprofessionals, and investigators to perform the duties prescribed by this subsection. The division shall maintain records of representation of eligible clients for record-keeping purposes only.;

And by relettering the remaining subsections;

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

And,

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

Eng. Com. Sub. for Senate Bill 103—A Bill to amend and reenact §29-21-6 and §29-21-13a of the Code of West Virginia, 1931, as amended, all relating generally to Public Defender Services; requiring Public Defender Services to establish and operate a division within the agency for the purpose of prosecuting writs of habeas corpus on behalf of eligible clients in the circuit courts of the state and before the Supreme Court of Appeals upon appointment by a court; transferring initial authority to review, approve, modify, or refuse panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission or reconsideration of vouchers previously modified or refused; establishing procedures for handling of modified or refused vouchers; maintaining final authority over payment of vouchers with circuit courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for noncriminal legal services; providing for payment of contracts; authorizing agency to reduce or reject vouchers or requests for payment; requiring panel attorneys to maintain time-keeping records to enable the attorney to determine time expended on a daily basis; setting record-keeping standards; requiring prompt processing and payment of vouchers; increasing the rates of compensation for panel attorneys; authorizing payment for in-court paralegal services with prior approval of the circuit court and subject to agency rule regarding maximum reimbursement; authorizing the executive director to promulgate emergency rules; and setting an effective date.

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

Engrossed Committee Substitute for Senate Bill 103, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 103) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 103) takes effect July 1, 2019.

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 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

On motion of Senator Takubo, 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:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-22. County solid waste assessment fees authorized.

Each county or regional solid waste authority is hereby authorized to impose a similar solid waste assessment fee to that imposed by §22-15-11 of this code at a rate not to exceed ~~50¢~~ \$1.50 per ton or part thereof upon the disposal of solid waste in that county or region. All assessments due shall be applied to the reasonable costs of administration of the county's regional or county solid waste authority including the necessary and reasonable expenses of its

members, and any other expenses incurred from refuse cleanup, litter control programs, or any solid waste programs ~~deemed~~ considered necessary to fulfill its duties.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-4. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of ~~\$3.50~~ \$2.50 per ton or like ratio on any part of a ton of solid waste, except as provided in §22-16-4(e) of this code: *Provided*, That any solid waste disposal facility may deduct from this assessment fee an amount, not to exceed the fee, equal to the amount that the facility is required by the Public Service Commission to set aside for the purpose of closure of that portion of the facility required to close by §22-15-1 *et seq.* of this code. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility.

(b) *Collection, return, payment and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice shall remain in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this

section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States environmental protection agency.

(d) *Definitions.* — For purposes of this section, the term “solid waste disposal facility” means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section. Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste disposal facility by the person who owns, operates or leases the solid waste disposal facility if the facility is used exclusively to dispose of waste originally produced by that person in the person's regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the director as exempt from the solid waste assessment fee; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler shall keep accurate records of incoming and outgoing waste by weight. The records shall be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in §11-10-1 *et seq.*

of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 of this code, §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if the sections were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — (1) The proceeds of the fee collected pursuant to this section shall be deposited in the Closure Cost Assistance Fund established pursuant to §22-16-12 of this code: *Provided*, That the director may transfer up to 50 cents for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected on or after July 1, 1998, to the Solid Waste Enforcement Fund established pursuant to §22-15-11 of this code.

(2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of 30,000 tons per month from any landfill which is permitted to accept in excess of 30,000 tons per month pursuant to §22-15-9 of this code shall be remitted, at least monthly, to the county commission in the county in which the landfill is located. The remainder of the proceeds of the fee collected pursuant to this section shall be deposited in the Closure Cost Assistance Fund established pursuant to §22-16-12 of this code.;

And,

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

Eng. Com. Sub. for Senate Bill 147—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-16-4 of said code, all relating to shifting funding from the Landfill Closure Assistance Fund to local solid waste authorities.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 147, 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, Clements, Cline, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Boso, Facemire, Hamilton, Hardesty, Plymale, Romano, Sypolt, and Takubo—9.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 147) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 152, Relating generally to criminal offense expungement.

On motion of Senator Takubo, 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:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-26. Expungement of certain criminal convictions; procedures; effect.

(a) Eligibility for expungement. —

(1) Misdemeanors.

Subject to the limitations set forth in this section, a Any person convicted of a misdemeanor offense or offenses arising from the same transaction committed while he or she was between the ages of eighteen and twenty-six, inclusive, may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions, therewith. ~~The clerk of the circuit court shall charge and collect in advance the same fee as is charged for instituting a civil action pursuant to subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code for a petition for expungement.~~

(2) Nonviolent felonies.

Subject to the limitations set forth in this section, a person convicted of a nonviolent felony offense or offenses arising from the same transaction or series of transactions may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions.

~~(b) Expungement shall not be available for any conviction of an offense listed in subsection (i) of this section. The relief afforded by this subsection is only available to persons having no other prior or subsequent convictions other than minor traffic violations at the time the petition is filed: *Provided*, That at the time the petition is filed and during the time the petition is pending, petitioner may not be the subject of an arrest or any other pending criminal proceeding. No person shall be eligible for expungement pursuant to the provisions of subsection (a) of this section until one year after the conviction, completion of any sentence of incarceration or probation, whichever is later in time.~~

(b) Temporal requirements. —

(1) Misdemeanor - A person is not eligible for expungement pursuant to subdivision (1), subsection (a) of this section until one year after conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) More than one misdemeanor – A person is not eligible for expungement of multiple misdemeanors pursuant to subdivision (1), subsection (a) of this section until two years after the last conviction, completion of any sentence of incarceration or completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) Non-violent felonies – A person is not eligible for expungement of a nonviolent felony pursuant to subdivision (2), subsection (a) of this section until five years after conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(c) *Limitations on eligibility for expungement.* — A person is not eligible for expungement pursuant to subsection (a) of this section for convictions of the following offenses:

(1) Any felony offense of violence against the person as defined in subdivision (2), subsection (p) of this section or any misdemeanor offense involving the intentional infliction of physical injury to a minor or law-enforcement officer;

(2) Any felony offense in which the victim of the crime was a minor as defined in subdivision (3), subsection (p) of this section;

(3) Any violation of §61-8B-1 *et seq.* of this code;

(4) Any offense in which the petitioner used or exhibited a deadly weapon or dangerous instrument;

(5) Any violation of §61-2-28 of this code, or any offense which violates §61-2-9(b) or §61-2-9(c) of this code in which the victim was a spouse, a person with whom the person seeking expungement had a child in common, or with whom the person seeking expungement ever cohabited prior to the offense or a violation of §61-2-28(c) of this code;

(6) Any violation of §61-2-29 of this code;

(7) Any offense of driving under the influence of alcohol or a controlled substance;

(8) Any offense which violates §17B-4-3 of this code;

(9) Any offense which violates §61-8-12 or §61-8-19 of this code;

(10) Any violation of §61-2-9a of this code;

(11) Any violation of §61-8B-8 and 9 of this code;

(12) Any violation of §61-3-11 of this code

(13) Any conviction for which the sentencing judge made a written finding that the offense was sexually motivated;

(14) Any offense which violates §17E-1-13(g) of this code; and

(15) Any offense of conspiracy or attempt to commit a felony set forth in subdivisions (1) through (13), inclusive, of this subsection.

~~(c)~~ (d) Content of petition for expungements. — Each petition to expunge a conviction or convictions pursuant to this section shall be verified under oath and include the following information, Provided, That a petition for the expungement of multiple misdemeanors shall identify and group such information by circuit court, as applicable, from which expungement of a particular conviction or convictions is being sought:

(1) ~~The Petitioner's~~ petitioner's current name and all other legal names or aliases by which the petitioner has been known at any time;

(2) All of the petitioner's addresses from the date of the offense ~~or alleged offense~~ in connection with which an expungement order is sought to date of the petition;

(3) ~~The Petitioner's~~ petitioner's date of birth and Social Security number;

(4) ~~The Petitioner's~~ petitioner's date of arrest, the court of jurisdiction, and criminal complaint, indictment, summons, or case number;

(5) The statute or statutes and offense or offenses for which the petitioner was charged and of which the petitioner was convicted;

(6) The names of any victim or victims, or a statement that there were no identifiable victims;

(7) Whether there is any current order for restitution, protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection, or restraining order prohibiting the petitioner from contacting the victim. If there is ~~such~~ a current order, the petitioner shall attach a copy of that order to his or her petition;

(8) The ~~court's~~ disposition of the matter and ~~punishment~~ sentence imposed, if any;

(9) ~~Why~~ The grounds on which expungement is sought, ~~such as,~~ including, but not limited to, employment or licensure purposes ~~and why it should be granted;~~

(10) The steps the petitioner has taken since the time of the offense or offenses toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(11) Whether petitioner has ever been granted expungement or similar relief regarding a criminal conviction by any court in this state, by the court of any other state, or by any federal court; ~~and~~

(12) Any supporting documents, sworn statements, affidavits, or other information supporting the petition ~~to expunge~~ for expungement.

~~(d)~~ (e) Service of petition for expungement. — The petitioner shall serve a copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the rules of the trial court upon the following persons or entities:

(1) The Superintendent of the State Police;

(2) The prosecuting attorney of the county of conviction;

(3) The chief of police or other executive head of the municipal police department wherein where the offense was committed;

(4) The chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner;

(5) The superintendent or warden of any institution in which the petitioner was confined; and

(6) The circuit court, magistrate court, or municipal court which disposed of the petitioner's criminal charge. and all other state and local government agencies whose records would be affected by the proposed expungement.

(f) The prosecutorial office that had jurisdiction over the offense or offenses for The prosecuting attorney of the county in which expungement is sought shall serve by first class mail the petition for expungement, accompanying documentation, and any proposed expungement order by first class mail to any identified victims.

(e) (g) Notice of opposition. —

(1) Upon receipt of a petition for expungement, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law enforcement officer of any other law enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the magistrate court or municipal court which disposed of the petitioner's criminal charge; all other state and local government agencies whose records would be affected by the proposed expungement persons and entities listed in subsection (e) of this section, and any other interested individual person or agency that desires to oppose the expungement shall may, within 30 days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for expungement.

(2) A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with trial court rules.

(3) The petitioner may file a reply to a notice of opposition no later than ten 30 days after service of any notice of opposition to the petition for expungement.

(f) (h) Burden of proof. — The burden of proof shall be on the petitioner seeking an order of expungement to prove by clear and convincing evidence that:

(1) That the conviction or convictions for which expungement is sought are the only convictions against the petitioner and that the conviction or convictions are not excluded from expungement by subsection (j) the provisions of this section;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation period of supervision as set forth in subsection (b) of this section;

(3) That the petitioner has no criminal charges pending against him or her;

(4) That the expungement is consistent with the public welfare;

(5) That the petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and is law-abiding; and

(6) Any other ~~matter~~ facts deemed considered appropriate or necessary by the court to make a determination regarding the petition for expungement.

~~(g)~~ (i) Court procedure for petition for expungement. —

Within 60 days of the filing of a petition for expungement the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition if the court determines that the petition is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to expungement;

~~(h)~~ (j) Hearing on petition for expungement. —

If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence, and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court ~~deems~~ considers proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for expungement with appropriate findings of fact and conclusions of law.

~~(i) No person shall be eligible for expungement of a conviction and the records associated therewith pursuant to the provisions of subsection (a) of this section for any violation involving the infliction of serious physical injury; involving the provisions of article eight b of this chapter where the petitioner was eighteen years old, or older, at the time the violation occurred and the victim was twelve years of age, or younger, at the time the violation occurred; involving the use or exhibition of a deadly weapon or dangerous instrument; of the provisions of subsection (b) or (c), section nine, article two of this chapter where the victim was a spouse, a person with whom the person seeking expungement had a child in common or with whom the person seeking expungement ever cohabitated prior to the offense; any violation of the provisions of section twenty-eight of said article; a conviction for driving under the influence of alcohol, controlled substances or a conviction for a violation of section three, article four, chapter seventeen b of this code or section nineteen, article eight of this chapter.~~

~~(j)~~(k) Sealing of records. — If the court grants the petition for expungement, it shall order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official, including law-enforcement records. Every agency with records

relating to the arrest, charge, or other matters arising out of the arrest or conviction that is ordered to expunge records shall certify to the court within 60 days of the entry of the expungement order that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed. ~~For the purposes of this section, "records" do not include the records of the Governor, the Legislature or the Secretary of State that pertain to a grant of pardon. Such records that pertain to a grant of pardon are not subject to an order of expungement. The amendment to this section during the fourth extraordinary session of the Legislature in the year 2009 is not for the purpose of changing existing law, but is intended to clarify the intent of the Legislature as to existing law regarding expungement.~~

~~(k)(l)~~ Disclosure of expunged matters. —

~~(1) Subject to the exceptions set forth in this section, upon expungement, the proceedings in the matter shall be deemed, considered, as a matter of law, never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto to the record on an application for employment, credit, or other type of application: Provided, That any person applying for a position in which he or she would be engaging in the prevention, detection, investigation, prosecution, or incarceration of persons for violations of the law shall disclose any and all convictions to his or her prospective employer, regardless of whether the conviction or convictions have been expunged pursuant to this section.~~

~~(2) A person for whom an order of expungement has been entered pursuant to this section may not be found guilty of perjury or otherwise giving a false statement, under any provision of this code, because of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction, as long as the person is in compliance with subdivision (1) of this subsection.~~

~~(3) Notwithstanding any provisions of this code to the contrary, any person required by state or federal law to obtain a criminal history record check on a prospective employee are authorized to have knowledge of any convictions expunged under this section.~~

~~(l) (m) Inspection of sealed records. —~~ Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that there is a legitimate reason for access and the interests of justice will be served by granting a petition to inspect the sealed record, it may ~~be granted~~ grant access under the terms and conditions determined by the court.

~~(n) Fees for filing petition for expungement and processing orders of expungement. —~~ The clerk of the circuit court shall charge and collect in advance the same fee for a petition for expungement as is charged for instituting a civil action pursuant to §59-1-11(a)(1) of this code. A person obtaining an order of expungement pursuant to the provisions of this section shall pay a fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement deposited into a special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account.

~~(o) Notwithstanding any provision of this code to the contrary, a person may only obtain the relief afforded by the provisions of this section and §61-11-26a of this code once.~~

(p) For the purposes of this section:

(1) "Court record" means an official record of a court about a proceeding that the clerk of the court or other court personnel maintains. "Court record" includes an index, a docket entry, a petition or other pleading, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment.

(2) "Felony crime of violence against the person" means those felony offenses set forth in §61-2-1 et seq., §61-3E-1 et seq., §61-8B-1 et seq., and §61-8D-1 et seq. of this code.

(3) "Felony offenses in which the victim was a minor" means felony violation of §61-3C-14b, §61-8-1 et seq., §61-8A-1 et seq., §61-8C-1 et seq., or §61-8D-1 et seq. of this code.

(4) "Nonviolent felony" means a felony that:

(A) Is not an offense listed in subsection (c) of this section;

(B) Is not an offense involving the intentional infliction of serious bodily injury;

(C) Is an offense the conviction of which is based on facts and circumstances of which the circuit court finds to be consistent with the purposes of this article; and

(D) Is an offense the conviction of which the circuit court finds does not involve violence or potential violence to another person or the public.

(5) "Records" do not include the records of the Governor, the Legislature, or the Secretary of State that pertain to a grant of pardon. Records that pertain to a grant of pardon are not subject to an order of expungement.

(6) "Seal" means removing information from public inspection in accordance with this section.

(7) "Sealing" means:

(A) For a record kept in a courthouse, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access;

(B) For electronic information about a proceeding on the website maintained by a magistrate court, circuit court, or the Supreme Court of Appeals, removing the record from the public website; and

(C) For a record maintained by any law-enforcement agency, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access.

(q) *Statutory construction.* — Nothing in this section may be construed to allow a person obtaining relief pursuant to this section to be eligible for reinstatement of any retirement or employment benefit which he or she lost or forfeited due to the conviction or convictions expunged.

(r) The enactment of this section during the 2019 regular session includes the repeal of the provisions of §61-11B-1 et seq. of this code. Any person that had a sentence reduction pursuant to the provisions of §61-11B-1 et seq. of this code may petition the court of record to have the

criminal offense reduction order converted into an order of expungement. Upon verification by the court that the petitioner qualifies, the court shall enter an order of expungement of the petitioner's conviction.

§61-11-26a. Expungement of certain criminal convictions with approved treatment or recovery and job program.

(a) Notwithstanding any provisions of §61-11-26 of this code to the contrary, any person who has been convicted of a nonviolent felony offense or multiple misdemeanors and that would be eligible for expungement pursuant to the provisions of §61-11-26 of this code and who: (1) has a medically documented history of substance abuse and successful compliance with a substance abuse treatment or recovery and counseling program approved by the Secretary of the Department of Health and Human Resources; or (2) graduates from a West Virginia Department of Education approved Job Readiness Adult Training course, or both, if applicable, may petition the circuit court or circuit courts in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated therewith as provided in §61-11-26 of this code as follows:

(1) Any person who has been convicted of a single misdemeanor that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is eligible for expungement pursuant to §61-11-26(a)(1) of this code upon successful compliance with an approved substance abuse treatment and recovery and counseling program for 90 days or upon completion of an approved Job Readiness Adult Training course, or both, if applicable, but after the completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) Any person who has been convicted of multiple misdemeanors that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is not eligible for expungement pursuant to §61-11-26(a)(1) of this code until 1 year after the last conviction, completion of any sentence of incarceration or completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) Any person who has been convicted of a nonviolent felony offense that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is not eligible for expungement pursuant to §61-11-26(a)(2) of this code until three years after conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(b) In addition to the required content of a petition for expungement as required by §61-11-26(d) of this code, any person petitioning for an expungement pursuant to the provisions of this section, shall also include the following, if applicable:

(1) Documentation of compliance with an approved treatment or recovery and counseling program; and

(2) Certificate of graduation from an approved Adult Training Job Readiness Course.

(c) A person may file only one petition for expungement, to the circuit court or circuit courts as applicable, pursuant to the provisions of this section and the provisions of §61-11-26 of this code.

(d) The fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement required in §61-11-26(n) of this code is waived for petitions of expungement filed pursuant to the provisions of this section.

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION.

§61-11B-1. Legislative intent.

[Repealed.]

§61-11B-2. Definitions.

[Repealed.]

§61-11B-3. Criminal offense reduction.

[Repealed.]

§61-11B-4. Petition for reduction.

[Repealed.]

§61-11B-5. Employer protections.

[Repealed.;

And,

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

Eng. Com. Sub. for Senate Bill 152—A Bill to repeal §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-11-26 of said code; and to amend said code by adding thereto a new section, designated §61-11-26a, all relating generally to expungement of certain convictions; eliminating statutory authority to reduce certain felonies to misdemeanor status; authorizing those who have used statutory authority to reduce certain felonies to misdemeanors to seek expungement; defining terms; eliminating age limitations for petitioners seeking to expunge certain misdemeanors; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies or multiple misdemeanors; providing exclusions from eligibility; establishing time limitations for filing a petition for expungement; creating petition requirements and court procedure for evaluating petitions for orders of expungement for expungable offenses; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; establishing fees, including when fees are waived; clarifying that an order of expungement does not reinstate eligibility for certain benefits lost due to expunged conviction; providing time limitations for filing petitions of expungement after completion of certain drug treatment or job training; and making technical changes.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 152, as amended by the House of Delegates, was then put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 152 pass?"

Senator Tarr requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate because he is an employer who may be in the position of hiring a person with an expunged criminal record.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Tarr—1.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 152) passed with its House of Delegates amended title.

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

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 6:19 p.m. today:

Eng. Com. Sub. for Com. Sub. for Senate Bill 317, Authorizing three or more adjacent counties form multicounty trail network authority.

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, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 291, Relating generally to survivor benefits for emergency response providers.

On motion of Senator Takubo, 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 one, line five, after the word “law-enforcement” by inserting the word “agency”;

And,

On page two, section two, line twenty-two, after the word “law-enforcement” by inserting the word “agency”.

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

Engrossed Committee Substitute for Senate Bill 291, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 291) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 291) takes effect July 1, 2019.

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 345, Relating to fire service equipment and training funds for VFDs.

On motion of Senator Takubo, 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 section and inserting in lieu thereof the following:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and Protection Fund and the Fire Protection Fund; deductions for unauthorized expenditures; record retention.

~~(a) Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds Money received from the state for volunteer and part-volunteer fire companies and departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, may not be commingled with funds moneys received from any other source, except money received as a grant from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code. Expenditures may be made Distributions from the Municipal Pensions and Protection Fund and the Fire Protection Fund allocated to volunteer and part-volunteer fire companies and departments may be expended only for the following:~~

(1) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats, and gloves;

(2) Equipment for compliance with the national fire protection standard or automotive fire apparatus, NFPA-1901;

(3) Compliance with insurance service office recommendations relating to fire departments;

(4) Rescue equipment, communications equipment, and ambulance equipment: *Provided*, That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-volunteer fire company or department members;

(5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;

(6) Retirement of debts;

(7) Payment of utility bills;

(8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood-borne pathogens: *Provided*, That the vaccine shall be purchased through the state immunization program or from the lowest-cost vendor available: *Provided, however*, That volunteer and part-volunteer fire companies and departments shall seek to obtain no-cost administration of the vaccinations through local boards of health: *Provided further*, That in the event any volunteer or part-volunteer fire company or department is unable to obtain no-cost administration of the vaccinations through a local board of health, the company or department shall seek to obtain the lowest cost available for the administration of the vaccinations from a licensed health care provider;

(9) Any filing fee required to be paid to the Legislative Auditor's Office under §12-4-14 of this code relating to sworn statements of annual expenditures submitted by volunteer or part-volunteer fire companies or departments that receive state funds or grants;

(10) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability;

(11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage, and accounting costs;

(12) Dues paid to national, state, and county associations;

(13) Workers' compensation premiums;

(14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters; and

(15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

(b) If a volunteer or part-volunteer fire company or department spends any amount of money received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for an item, service, or purpose not authorized by this section, that amount, when determined by an official audit, review, or investigation, shall be deducted from future distributions to the volunteer fire company or part-volunteer fire department.

(c) If a volunteer or part-volunteer fire company or department purchases goods or services authorized by this section, but then returns the goods or cancels the services for a refund, then any money refunded shall be deposited back into the same, dedicated bank account used for the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire Protection Fund.

(d) Each volunteer or part-volunteer fire company and department shall retain, for five calendar years, all invoices, receipts, and payment records for the goods and services paid with money received from the state for volunteer and part-volunteer fire companies and departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 4. ACCOUNTS, REPORTS, AND GENERAL PROVISIONS.

§12-4-14. Accountability of ~~persons~~ grantees receiving state funds or grants; sworn statements by volunteer fire departments; criminal penalties.

(a) For the purposes of this section:

(1) "Grantor" means a state spending unit awarding a state grant.

(2) "~~Person~~" "Grantee" means any entity receiving a state grant, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity. ~~The~~

~~term "person" does not include a state spending unit or a local government as defined in section one a, article nine, chapter six of this code~~

(3) "Report" means an engagement, such as an agreed-upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term "report" does not mean a full-scope audit or review of the person receiving state funds.

(4) "State grant" means funding provided by a state spending unit, regardless of the original source of the funds, to a ~~person~~ grantee upon application for a specific purpose. The term "state grant" does not include: (A) Payments for goods and services purchased by a state spending unit; (B) compensation to state employees and public officials; (C) reimbursements to state employees and public officials for travel or incidental expenses; (D) grants of student aid; (E) government transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds; (H) retirement benefits; and (I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501, *et seq.* The term "state grant" does not include formula distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, §33-12C-7 ~~of said chapter of this code and does not include money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.~~

(b) (1) Any ~~person~~ grantee who receives one or more state grants in the amount of \$50,000 or more in the aggregate in a state's fiscal year shall file with the grantor a report of the disbursement of the state grant funds. When the grantor causes an audit, by an independent certified public accountant, to be conducted of the grant funds, the audit is performed using generally accepted government auditing standards, and a copy of the audit is available for public inspection, no report is required to be filed under this section. An audit performed that complies with Office of Management and Budget circular A-133, ~~as published on June 27, 2003,~~ and submitted within the period provided in this section may be substituted for the report.

(2) Any ~~person~~ grantee who receives a state grant in an amount less than \$50,000 or who is not required to file a report because an audit has been conducted or substituted as provided by subdivision (1) of this subsection shall file with the grantor a sworn statement of expenditures made under the grant.

(3) Reports and sworn statements of expenditures required by ~~subdivisions (1) and (2)~~ of this subsection shall be filed within two years of the end of the ~~person's~~ grantee's fiscal year in which the disbursement of state grant funds by the grantor was made. The report shall be made by an independent certified public accountant at the cost of the ~~person receiving the state grant~~ grantee. State grant funds may be used to pay for the report if the applicable grant provisions allow. The scope of the report is limited to showing that the state grant funds were spent for the purposes intended when the grant was made.

(c) (1) Any ~~person~~ grantee failing to file a required report or sworn statement of expenditures within the two-year period provided in subdivision (3), subsection (b) of this section for state grant funds ~~disbursed after July 1, 2003,~~ is barred from subsequently receiving state grants until the ~~person~~ grantee has filed the report or sworn statement of expenditures and is otherwise in compliance with the provisions of this section.

(2) Any grantor of a state grant shall report any ~~persons~~ grantee failing to file a required report or sworn statement of expenditures within the required period provided in ~~subdivision (3), subsection (b) of this section for a state grant disbursed after July 1, 2003,~~ to the Legislative Auditor for purposes of debarment from receiving state grants.

(d) (1) The state agency administering the state grant shall notify the ~~person~~ grantee of the reporting requirements set forth in this section.

(2) All grantors awarding state grants shall, prior to awarding a state grant, take reasonable actions to verify that the ~~person~~ grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

(A) A requirement that the ~~person~~ grantee seeking the state grant provide a sworn statement from an authorized representative that the ~~person~~ grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

(B) Confirmation from the Legislative Auditor by the grantor that the ~~person~~ grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided in subsection (e) of this section.

(3) If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the Legislative Auditor within 30 days of receipt by the grantor.

(4) The grantor shall maintain copies of reports and sworn statements of expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

(5) The Secretary of the Department of Administration has authority to promulgate procedural and interpretive rules and propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code to assist in implementing the provisions of ~~subsections (a), (b), (c) and (d)~~ of this section.

(e) (1) Any state agency administering a state grant shall, in the manner designated by the Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed, the identity of the ~~person~~ grantee authorized to receive the funds, the ~~person's~~ grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant within 30 days of making the state grant or authorizing the disbursement of the funds, whichever is later. ~~If the state grant was awarded prior to October 1, 2005, the grantor shall provide the information required by this section by December 1, 2005.~~

(2) The State Treasurer shall provide the Legislative Auditor the information concerning formula distributions to volunteer and part-volunteer fire departments, made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 ~~of said chapter of this code~~, the Legislative Auditor requests, and in the manner designated by the Legislative Auditor.

(3) The Legislative Auditor shall maintain a list identifying ~~persons~~ grantees who have failed to file reports and sworn statements required by this section. The list may be in the form of a computerized database that may be accessed by state agencies over the Internet.

(f) An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no cost to the grantee.

~~(g) (1) Volunteer and part-volunteer fire departments receiving formula distributions pursuant to §33-3-14D, §33-3-33, §33-12C-7 of this code shall either:~~

~~(A) File a report, as defined in §12-4-14(a)(3) of this code with the Legislative Auditor within the same time frames as are required for sworn statements of annual expenditures to be filed under this section. The report shall be made by an independent certified public accountant at the cost of the volunteer or part-volunteer fire department. The scope of the report is limited to showing that the funds distributed were spent for authorized purposes; or~~

~~(B) File a sworn statement of annual expenditures with the Legislative Auditor on or before February 14 of each year. The sworn statement of expenditures shall be signed by the chief or director of the volunteer fire department and shall be made under oath and acknowledged before a notary public.~~

~~(2) If the sworn statement or report required by this subsection is not filed on or before May 15, unless the time period is extended by the Legislative Auditor, the Legislative Auditor may conduct an audit of the volunteer or part-volunteer fire department.~~

~~(3) If the sworn statement of annual expenditures or report required by this subsection is not filed with the Legislative Auditor by July 1, unless the time period is extended by the Legislative Auditor, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the fire department under the provisions of §33-3-14D, §33-3-33, §33-12C-7 of this code until the report is complete. Moneys withheld pursuant to this subdivision are to be deposited in the special revenue account created in the State Treasury in §12-4-14(g)(4) of this code.~~

~~(4) The Legislative Auditor may assign an employee or employees to perform audits or reviews at the direction of the Legislative Auditor of the disbursement of state grant funds to volunteer fire departments. The volunteer fire department shall cooperate with the Legislative Auditor, the Legislative Auditor's employees and the State Auditor in performing their duties under this section. If the Legislative Auditor determines a volunteer fire department is not cooperating, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the fire department under the provisions of §33-3-14D, §33-3-33, §33-12C-7 of this code until the Legislative Auditor informs the Treasurer that the fire department has cooperated as required by this section. The State Treasurer shall pay the amount withheld into a special revenue account hereby created in the State Treasury and designated the "Volunteer Fire Department Audit Account". If, after one year from payment of the amount withheld into the special revenue account, the Legislative Auditor informs the State Treasurer of continued noncooperation by the fire department, the State Treasurer shall pay the amount withheld to the fund from which it was distributed to be redistributed the following year pursuant to the applicable provisions of those sections.~~

~~(5) Whenever the State Auditor performs an audit of a volunteer fire department for any purpose the Auditor shall also conduct an audit of other state funds received by the fire department pursuant to §33-3-14D, §33-3-33, §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit under this section.~~

~~(6) If the Legislative Auditor is notified by a grantor that a fire department has failed to file a report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor shall notify the Treasurer who shall withhold further distributions to the fire department in the same manner provided in §12-4-14(g)(3) of this code.~~

~~(h)~~ (g) Any report submitted pursuant to the provisions of this section may be filed electronically in accordance with the provisions of §39A-1-1 *et seq.* of this code.

~~(i)~~ (h) Any ~~person~~ grantee who files a fraudulent sworn statement of expenditures under ~~subsection (b) or (g) of this section~~ subsection (b) of the section, a fraudulent sworn statement under subsection (d) of this section, or a fraudulent report under this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

§12-4-14b. Accountability of volunteer and part-volunteer fire companies or departments receiving state funds for equipment and training; review or audit of expenditures; withholding of state funds for delinquency or misuse; notifications.

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

“Equipment and training grant” means a grant of money to a volunteer fire company or a part-volunteer fire department from the Fire Service Equipment and Training Fund created in §29-3-5f of this code;

“Formula distribution” means a distribution of money to volunteer and part-volunteer fire companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code; and

“State funds account” means a bank account established by a volunteer or part-volunteer fire company or department and maintained for the exclusive use and accounting of money from formula distributions and equipment and training grants.

(b) Filing required documentation. — Every volunteer and part-volunteer fire company or department seeking to receive formula distributions or an equipment and training grant shall file copies of bank statements and check images from the company’s or department’s state funds account for the previous calendar year with the Legislative Auditor on or before February 1 of each year.

(c) Reviews and audits. — The Legislative Auditor is authorized to conduct regular reviews or audits of deposits and expenditures from formula distribution and equipment and training grant funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may assign an employee or employees to perform audits or reviews at his or her direction. The State Treasurer shall provide the Legislative Auditor information, in the manner designated by the Legislative Auditor, concerning formula distributions and equipment and training grants paid to volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire company or department shall cooperate with the Legislative Auditor, the Legislative Auditor’s employees, and the State Auditor in performing their duties under the laws of this state.

(d) State Auditor. — Whenever the State Auditor performs an audit of a volunteer or part-volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of

other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit under this section.

(e) *Withholding of funds.* — The Treasurer is authorized to withhold payment of a formula distribution or an equipment and training grant from a volunteer or part-volunteer fire company or department, when properly notified by the Legislative Auditor pursuant to this section, of any of the following conditions:

(1) Failure to file, in a timely manner, copies of bank statements and check images with the Legislative Auditor;

(2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

(3) Misapplication of state funds; or

(4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14 of this code for a state grant other than an equipment and training grant.

(f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company or department has failed to file the required bank statements and check images with the Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at two separate times in writing of the delinquency and of possible forfeiture of its Fire Service Equipment and Training Fund distribution for the year. If the required bank statements and check images are not filed with the Legislative Auditor by March 31, unless the time period is extended by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department. Prior to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall notify each delinquent company or department twice per each quarter in which the company or department is delinquent. The Legislative Auditor may choose the method or methods of notification most likely to be received by the delinquent company or department.

(g) *Noncooperation.* — If, in the course of an audit or review by the Legislative Auditor, a volunteer or part-volunteer fire company or department fails to provide documentation of its accounts and expenditures in response to a request of the Legislative Auditor, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the company or department has cooperated with the review or audit.

(h) *Reporting of other grants.* — Nothing in this section alters the duties and responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-4-14 of this code if that company or department has received funds from any state grant program other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified by a grantor that a volunteer or part-volunteer fire company or department has failed to file a report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor shall notify the State Treasurer who shall withhold further distributions to the company or department in the manner provided in this section.

(i) Escrow and forfeiture of moneys withheld. — The Volunteer Fire Department Audit Account previously created in the Treasury is hereby continued. When the State Treasurer receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the volunteer or part-volunteer fire company or department has come into compliance in less than one year from the date of deposit into this special revenue account, then the Treasurer shall release and distribute the withheld amounts to the company or department, except that any interest that has accrued thereon shall be credited to the general revenue of the state. If, after one year from payment of the amount withheld into the special revenue account, the Legislative Auditor informs the State Treasurer of continued noncooperation by the company or department, the delinquent company or department forfeits the amounts withheld and the State Treasurer shall pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of this code.

(j) Misuse of state money. — If the Legislative Auditor determines that a volunteer or part-volunteer fire company or department has used formula distribution money for purposes not authorized by §8-15-8b of this code or has used equipment and training grant money for purposes not authorized by the grant program, the Legislative Auditor shall give a written notice of noncompliance to the company or department. If a volunteer or part-volunteer fire company or department disagrees or disputes the finding, the company or department may contest the finding by submitting a written objection to the Legislative Auditor within five working days of receipt of the Legislative Auditor's finding. The department or company shall then have 60 days from the date of the Legislative Auditor's finding to provide documentation to substantiate that the expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company or department does not dispute the findings of the Legislative Auditor or if the company or department is not able to substantiate an authorized purpose for the expenditure, the Legislative Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall deduct that amount from future distributions to that company or department until the full amount of unauthorized expenditure is offset.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5f. Fire Service Equipment and Training Fund; creation of fire service equipment and training grant; reports of ineligibility to State Fire Marshal.

(a) There is hereby created in the Treasury a special revenue fund to be known as the Fire Service Equipment and Training Fund. Expenditures from the fund by the State Fire Marshal are authorized from collections. The fund may only be used for the purpose of providing grants to equip volunteer and part-volunteer fire companies and departments and their members, and to train volunteer and part-volunteer firefighters. Any balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue Fund, but remains in the Special Revenue Fund. ~~The State Fire Marshal shall propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code to implement the grant program established pursuant to this section~~

(b) The State Fire Marshal shall establish a grant program for equipment and training for volunteer and part-volunteer fire companies and departments. Such grant program shall be open to all volunteer and part-volunteer fire companies and departments. In making grants pursuant to this section, the State Fire Marshal shall consider:

(1) The number of emergency and nonemergency calls responded to by the company or department;

(2) The activities and responses of the company or department;

(3) The revenues received by the company or department from federal, state, county, municipal, local, and other sources; and

(4) The company's or department's assets, expenditures, and other liabilities, including whether the fire company or department has availed itself of available statewide contracts.

(c) The State Fire ~~Commission~~ Marshal shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program established pursuant to this section.

(d) The Legislative Auditor shall notify the State Fire Marshal of any volunteer or part-volunteer fire company or department that is ineligible to receive grant funds due to the company's or department's failure to file required bank statements or financial reports or failure to comply with an audit or review by the Legislative Auditor. A volunteer or part-volunteer fire company or department reported by the Legislative Auditor shall be ineligible to receive funds under this section until the Legislative Auditor notifies the State Fire Marshal that the company or department has come into compliance.

§29-3-8. Comprehensive report by State Fire Marshal.

~~(a) On or before July 1, 2019, the State Fire Marshal shall submit a comprehensive report to the Joint Committee on Government and Finance containing a recommended plan for transferring authority and responsibility for providing fire services to the counties. Such report shall include, but not be limited to, recommendations regarding recommended state oversight of such fire services; financial support for fire services, a plan and timeline for transitioning responsibility and oversight to the counties; and county authority, oversight, and accountability of operations, fiscal planning, financial accountability, and risk management planning. The State Fire Marshal shall solicit input from appropriate state agencies, county officials, and other interested parties, which shall provide requested information to the State Fire Marshal to assist in preparation of the report and recommendation.~~

~~(b) On or before July 1, 2019, the State Fire Marshal shall study, prepare, and submit a report to the Joint Committee on Government and Finance regarding reciprocity of firefighter and fire officer certification with other states. Such report shall include recommendations regarding ways to increase availability of reciprocal certification, including any necessary changes to state code or regulation necessary to facilitate additional reciprocity.;~~

And,

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

Eng. Com. Sub. for Senate Bill 345—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f and §29-3-8 of said code, all relating to accounting and reporting relating state grants, distributions and studies generally; authorizing commingling of certain funds; imposing authority,

duties and consequences relating to volunteer and part-volunteer fire companies and departments as to state grants and distributions; imposing authority, duties and consequences relating to other recipients of state grants; modifying liability for criminal penalties; imposing authority and duties on Legislative Auditor, State Auditor and State Fire Marshal; clarifying the responsibility for proposing legislative rules; removing requirement for report by State Fire Marshal; and updating outdated language.

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

Engrossed Committee Substitute for Senate Bill 345, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 345) 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 further amendment by that body to the amendments to the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates further amendment, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 402, Authorizing Division of Forestry investigate and enforce timber theft violations.

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

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

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 402—A Bill to amend and reenact §19-1A-3b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3-52 of said code, all relating to authorizing the Division of Forestry to investigate and enforce timber theft and intentional damage to the timber of another; increasing the threshold between felony and misdemeanor from \$1,000 to \$2,500; requiring enhanced penalties for subsequent offenses occurring within ten years of the first offense; and establishing criminal penalties.

On motion of Senator Takubo, the Senate concurred in the House of Delegates further amendment to the amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 402, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 402) passed with its House of Delegate amended title.

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

At the request of Senator Woelfel, unanimous consent being granted, Senator Woelfel addressed the Senate regarding the actions of a member of the House of Delegates yesterday, Friday, March 8, 2019, during an interfaith prayer.

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

The Senate again proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2183), Clarifying where a charge of DUI may be brought against an individual.

(Com. Sub. for H. B. 2359), Relating to exemptions to the commercial driver's license requirements.

(Com. Sub. for H. B. 2439), Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

(Com. Sub. for H. B. 2531), Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

(Com. Sub. for H. B. 2538), Providing banking services for medical cannabis.

(Com. Sub. for H. B. 2609), Relating to presumptions of abandonment and indication of ownership in property.

And,

(Com. Sub. for H. B. 2734), Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Takubo announced a meeting of the committee of conference as to Engrossed Committee Substitute for Senate Bill 487 (*Relating to admissibility of health care staffing requirements in litigation*).

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 6:27 p.m., the Senate recessed until 7:10 p.m. tonight.

The Senate reconvened at 7:14 p.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested 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 Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

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

Delegates Criss, Linville, and Barrett.

On motion of Senator Trump, the Senate agreed to the appointment of a conference committee on the bill.

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

Senators Blair, Smith, and Plymale.

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 that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2670, Relating to damages for medical monitoring.

On motion of Senator Trump, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Trump, Takubo, and Hardesty.

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 that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

Eng. House Bill 3143, Relating to requirements for consumer loans in West Virginia.

On motion of Senator Trump, the Senate refused to recede from its amendment to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Azinger, Maynard, and Jeffries.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2049, Relating to a prime contractor's responsibility for wages and benefits.

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

On further motion of Senator Trump, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

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

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

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-7. Prime contractor's responsibility for wages and benefits.

(a) Whenever any person, firm, or corporation shall contract with another for the performance of any work which the prime contracting person has undertaken to perform for another, the prime contractor shall become civilly liable to employees engaged in the performance of work under ~~such the~~ the contract for the payment of wages and fringe benefits relating to such work only, exclusive of attorney's fees, interest, liquidated damages, or any other damages of any kind, as provided in §21-5-4(e) of this code, or other applicable law and/or common law, to the extent that the employer of ~~such the~~ the employee fails to pay ~~such the~~ the wages and fringe benefits: for work

performed under the contract with the prime contractor. The employer, and its shareholders, owners, directors, and officers shall be personally and civilly liable to the prime contractor for any sums paid under this section, including attorney's fees.

(b) Any individual or entity seeking redress pursuant to subsection (a) of this section must:

(1) Notify the prime contractor, by certified mail, only that wages or fringe benefits have not been paid within 100 days of the date the wages or fringe benefits become payable to the employee; and

(2) Commence the action within one year of the date the employee delivered notice to the prime contractor pursuant to subdivision (1) of this subsection.

~~*Provided*, That such employees have exhausted all feasible remedies contained in this article against such employer, but if the prime contractor has failed to notify the commissioner as required by section sixteen of this article, then the employee shall not be required to exhaust any remedies against the employer: *Provided, however*, That such employer shall become civilly liable to such prime contractor for any sum of money paid by him under this section.~~

(c) The employer of the employee to whom wages and/or fringe benefits are owed, shall whenever feasible provide, immediately upon request by the employee or the prime contractor, complete payroll records relating to work performed under the contract with the prime contractor.

(d) Whenever the employee to whom wages and/or fringe benefits are due is represented by a union or other plan administrator, the union or other plan administrator, shall whenever feasible, immediately upon notice of a claim hereunder, cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor. Further, if the union or agents thereof or other plan administrator, including, but not limited to, third party administrators, trustees, administrators, or employees, become aware that an employer is not timely in the payment of wages and/or fringe benefits, the union or other plan administrator shall immediately notify the affected employee and the prime contractor for whom the affected employee provided work.

(e) A prime contractor must notify the owner and the architect prior to the completion of the contract if any subcontractor has not been paid in full.;

And,

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

Eng. Com. Sub. for House Bill 2049—A Bill to amend and reenact §21-5-7 of the Code of West Virginia, 1931, as amended, relating to a prime contractor's responsibility for wages and benefits of employees of a subcontractor; establishing personal and civil liability for the employer and its shareholders, owners, directors, and officers to the prime contractor for any sums paid under this section, including attorney's fees; requiring notice to prime contractor by certified mail within 100 days of the missing wages becoming payable to the employee; instituting a one-year statute of limitations; requiring the employer of the employee to whom wages and fringe benefits are owed to whenever feasible provide immediately upon request by the employee or the prime contractor complete payroll records relating to work performed under the contract with the prime contractor; requiring when an employee to whom wages and fringe benefits are due is represented by a union or other plan administrator that the union or other plan administrator must

whenever feasible immediately upon notice of a claim cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor; providing that if the union or its agents or other plan administrator become aware that an employer is not timely in the payment of wages and fringe benefits the union or other plan administrator must immediately notify the affected employee and the prime contractor for whom the affected employee provided work; and providing that a prime contractor must notify the owner and the architect prior to the completion of the contract if any subcontractor has not been paid in full.

Following discussion,

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

The question being "Shall Engrossed Committee Substitute for House Bill 2049 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Blair, Boley, Boso, Takubo, and Woelfel—5.

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. 2049) 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.

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 7:28 p.m. tonight:

Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

Eng. House Bill 3044, Requiring the Commissioner of Highways to develop a formula for allocating road funds.

On motion of Senator Trump, the Senate refused to recede from its amendment to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Clements, Swope, and Beach.

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 that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2503, Relating to court actions.

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

On further motion of Senator Trump, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

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

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

ARTICLE 4. COURT ACTIONS.

PART VI.

PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE.

§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.

(a) *Petitioner and venue.* — If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) *Contents of Petition.* — The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references ~~thereto~~ to the statute, any supportive services provided by the department to remedy the alleged circumstances, and the relief sought. Each petition shall name as a party each parent, guardian, custodian, other person standing in loco parentis of or to the child allegedly neglected or abused and state with specificity whether each parent, guardian, custodian, or person standing in loco parentis is alleged to have abused or neglected the child.

(c) *Court action upon filing of petition.* — Upon filing of the petition, the court shall set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within 10 days of

the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

(d) *Department action upon filing of the petition.* — At the time of the institution of any proceeding under this article, the department shall provide supportive services in an effort to remedy circumstances detrimental to a child.

(e) *Notice of hearing.* —

(1) The petition and notice of the hearing shall be served upon both parents and any other guardian, custodian, or person standing in loco parentis, giving to the parents or custodian those persons at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.

(2) Notice shall be given to the department, any foster or pre-adoptive parent, and any relative providing care for the child.

(3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of the person. If the person signs the certificate, service ~~shall be~~ is complete and the certificate shall be filed as proof of the service with the clerk of the circuit court.

(4) If service cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with §59-3-1 *et seq.* of this code.

(5) A notice of hearing shall specify the time and place of ~~the hearing~~ hearings, the right to counsel of the child, ~~and parents, or~~ and other guardians, custodians, ~~at every stage of the proceedings,~~ and other persons standing in loco parentis with the child and the fact that the proceedings can result in the permanent termination of the parental rights.

(6) Failure to object to defects in the petition and notice may not be construed as a waiver.

(f) *Right to counsel.* —

~~(1) In any proceeding under this article, the child, his or her parents, and his or her legally established custodian or other persons standing in loco parentis to him or her has the right to be represented by counsel at every stage of the proceedings and shall be informed by the court of their right to be so represented and that if they cannot pay for the services of counsel, that counsel will be appointed.~~

(1) In any proceeding under this article, the child shall have counsel to represent his or her interests at all stages of the proceedings.

~~(2) Counsel shall be appointed in the initial order. For parents, legal guardians, and other persons standing in loco parentis, the representation may only continue after the first appearance the parent or other persons standing in loco parentis cannot pay for the services of counsel.~~

(2) The court's initial order shall appoint counsel for the child and for any parent, guardian, custodian, or other person standing in loco parentis with the child if such person is without retained counsel.

~~(3) Counsel for other parties shall only be appointed upon request for appointment of counsel. If the requesting parties have not retained counsel and cannot pay for the services of counsel, the court shall, by order entered of record, appoint an attorney or attorneys to represent the other party or parties and so inform the parties.~~

(3) The court shall, at the initial hearing in the matter, determine whether persons other than the child for whom counsel has been appointed:

(A) Have retained counsel; and

(B) Are financially able to retain counsel.

(4) A parent, guardian, custodian, or other person standing *in loco parentis* with the child who is alleged to have neglected or abused the child and who has not retained counsel and is financially unable to retain counsel beyond the initial hearing, shall be afforded appointed counsel at every stage of the proceedings.

~~(4)~~ (5) Under no circumstances may the same attorney represent both the child and another party the other party or parties., nor may the The same attorney may not represent both parents or custodians more than one parent or custodian: However, Provided, That one attorney may represent both parents or custodians where both parents or guardians custodians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney assures advises the court that she or he is able to represent each client without impairing her or his professional judgment.; however, if If more than one child from a family is involved in the proceeding, one attorney may represent all the children.

~~(5)~~ (6) A parent who is a co-petitioner is entitled to his or her own attorney.

(7) The court may allow to each attorney so appointed pursuant to this section a fee in the same amount which appointed counsel can receive in felony cases.

~~(6)~~ (8) The court shall, *sua sponte* or upon motion, appoint counsel to any unrepresented party if, at any stage of the proceedings, the court determines doing so is necessary to satisfy the requirements of fundamental fairness.

(g) *Continuing education for counsel.* — Any attorney representing a party under this article shall receive a minimum of eight hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition to this requirement, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this section. Where no attorney has completed the training required by this subsection, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child. Any attorney appointed pursuant to this section shall perform all duties required of an attorney licensed to practice law in the State of West Virginia.

(h) *Right to be heard.* — In any proceeding pursuant to this article, the party or parties having custodial or other parental rights or responsibilities to the child shall be afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, pre-adoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) *Findings of the court.* — Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) *Priority of proceedings.* — Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under §48-27-309 of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within 30 days of the termination of the improvement period.

(k) *Procedural safeguards.* — The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall be ~~inquired of~~ ask the parents or custodians whether or not appeal is desired and the response transcribed. A negative response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the ~~same transcript~~ transcript is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay for the transcript ~~therefor~~.

PART VI.

JUVENILE PROCEEDINGS

§49-4-722. Conviction for offense while in custody.

(a) Notwithstanding any other provision of law to the contrary, any person who is 18 years of age or older who is convicted as an adult of an offense that he or she committed while in the custody of the ~~Division~~ Bureau of Juvenile Services and who is ~~therefor~~ sentenced for the conviction to a regional jail or state correctional facility for the offense may not be returned to the custody of the ~~division~~ bureau upon the completion of his or her adult sentence.

(b) Upon the incarceration in a regional jail or state correctional facility of any person 18 years of age or older who remains subject to the juvenile jurisdiction of the circuit court for crimes committed in a juvenile facility, the Bureau of Juvenile Services shall provide written notification to both the circuit court with juvenile jurisdiction over the person and the judicial authority in the county where the criminal charges are pending that the person is being detained, remains in the jurisdiction of a circuit court, and is pending a sentence as an adult offender. Prior to the imposition of a sentence on the criminal charges, the juvenile facility in which the adult crime occurred shall inform the judicial authority in the county with jurisdiction over the criminal offense which circuit court has juvenile jurisdiction over the person. The judicial authority in the county with jurisdiction over the criminal offense shall then notify the circuit court with juvenile jurisdiction over the person. The person may not be released from custody on the criminal offense until the judicial authority

in the county where the criminal charges are pending has been notified by the circuit court with juvenile jurisdiction over the person that it has conducted the hearing required in §49-4-722(c) of this code.

~~(b)~~(c) Prior to completion of the adult sentence specified in subsection (a) of this section, the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to determine whether the person who has turned 18 years of age shall remain in the regional jail during pendency of the underlying juvenile matter or if another disposition or pretrial placement is appropriate and available: *Provided*, That the court may not remand a child who reached the age of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile matter: *Provided, however, That the Commissioner of the Division of Corrections and Rehabilitation is authorized to designate a unit in one or more of the institutions under his or her management to ensure that the detention of any person 18 years of age or older who is subject to subsection (a) of this section and who remains subject to the juvenile jurisdiction of a Circuit Court, may be placed in by the Commissioner, so that the person does not have contact with or come within sight or sound of any adult incarcerated persons.*

The question being “Shall Engrossed Committee Substitute for House Bill 2503 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Boley, Boso, Palumbo, and Sypolt—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. 2503) passed with its title.

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

At the request of Senator Unger, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2193, Providing a specific escheat of US savings bonds.

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

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

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

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-1. Definitions.

As used in this article:

(1) "Administrator" means the State Treasurer.

(2) "Apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued or owing by the holder.

(3) "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, safe deposit company, financial organization, insurance company, mutual fund, utility or other business entity consisting of one or more persons, whether or not for profit.

(4) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

(5) "Financial organization" means a savings and loan association, bank, banking organization or credit union.

(6) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this article.

(7) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers' compensation insurance.

(8) "Mineral" means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by the law of this state.

(9) "Mineral proceeds" means amounts payable for the extraction, production or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

(i) For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

(ii) For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

(iii) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

(10) "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

(11) "Owner" means a person who has a legal or equitable interest in property subject to this article or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant or payee in the case of other property.

(12) "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(13) "Property" means tangible personal property described in section three of this article or a fixed and certain interest in intangible personal property that is held, issued or owed in the course of a holder's business, or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

(i) Money, a check, draft, warrant for payment issued by the State of West Virginia, deposit, interest or dividend;

(ii) Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

(iii) Stock or other evidence of ownership of an interest in a business association or financial organization;

(iv) A bond, debenture, note or other evidence of indebtedness;

(v) Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

(vi) An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

(vii) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

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

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

(16) "United States savings bond" means property, tangible or intangible, in the form of a savings bond issued by the United States Treasury whether in paper form, electronic or paperless form, along with the proceeds thereof.

~~(16)~~ (17) "Utility" means a person who owns or operates for public use any plant, equipment, real property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas as defined in §24-1-2 of this code.

§36-8-2a. Escheat of United States savings bonds.

(a) Notwithstanding any other section of this article or any other section of this code to the contrary, United States savings bonds held or owing in this state by any person, or issued, or owed, in the course of a holder's business, by a state or other government, governmental subdivision, agency, or instrumentality, and all proceeds thereof, shall be presumed abandoned in the state if:

(1) The last known address of the owner of the United States savings bond is in this state; and

(2) The United States savings bond has remained unclaimed and unredeemed for a period of five years after final maturity.

(b) United States savings bonds which are presumed abandoned under §36-8-2a(a) of this code, including bonds in the possession of the administrator, and those lost, stolen or destroyed bonds registered to persons with last known addresses in this state, shall, upon satisfaction by the administrator of the requirements of §36-8-2a(c) through (e) of this code, escheat to the State of West Virginia one year after such bonds are presumed abandoned, and all property rights and legal title to, and ownership of, the United States savings bonds or proceeds from the bonds, including all rights, powers and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the State of West Virginia, subject only to the provisions of §36-8-15 and §36-8-16 of this code.

(c) After the expiration of the one-year period prescribed in §36-8-2a(b) of this code, if no claim has been filed pursuant to the provisions of §36-8-15 and §36-8-16 of this code for such United States savings bonds, but before such savings bonds escheat to the State of West Virginia, a civil action must be commenced by the administrator in the circuit court of Kanawha County, or in any other court of competent jurisdiction, for a determination that such United States savings bonds shall escheat to the State of West Virginia.

(d) The administrator shall make service by publication of the civil action in accordance with Rule 4(e) of the West Virginia Rules of Civil Procedure.

(e) Any person claiming ownership, including all persons claiming rights, powers and privileges of survivorship and any co-owner or beneficiary, or his or her agent, may appear and defend his or her rights to the subject bond or bonds, and if the court is satisfied that the claimant is entitled to the bond or bonds, the court may award judgment in the claimant's favor. If no person files a claim or appears at the hearing to substantiate a claim, or if the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with this section, shall enter a judgment that the subject United States savings bonds have escheated to the State of West Virginia, and all property rights and legal title to and ownership of such United States savings bonds or proceeds from such bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, shall vest solely in the State of West Virginia.

(f) Upon being awarded a judgment that the United States savings bond or bonds have escheated to the State of West Virginia, the administrator shall redeem such United States savings bonds. Upon recovery of the proceeds of any United States savings bonds, the administrator shall first pay all costs incident to the collection and recovery of such proceeds from the proceeds of such United States savings bonds and shall thereafter promptly deposit the remaining balance of such proceeds into the Unclaimed Property Fund pursuant to §36-8-13 of this code.

(g) Notwithstanding any other section of this article or any other section of this code to the contrary, any person making a claim for a United States savings bond escheated to the State of West Virginia under this section, or for the proceeds of such bond, may file a claim with the administrator pursuant to §36-8-15 of this code. Upon receipt of sufficient proof of the validity of such person's claim, the administrator may, in his or her sole discretion, pay such claim less any expenses and costs which have been incurred by the state in securing full title and ownership of such property by escheat. If payment has been made to any claimant, no action thereafter may be maintained by any other claimant against the state or any officer thereof, for, or on account of, such funds.;

And,

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

Eng. Com. Sub. for House Bill 2193—A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-8-2a, all relating to providing for the specific escheat of United States savings bonds and all rights and legal title thereto; defining “United States savings bond”; providing that a United States savings bond held or owing in West Virginia shall be presumed abandoned if the last known address of the owner is in West Virginia and the United States savings bond has remained unclaimed and unredeemed for a period of five years after final maturity; setting forth a procedure by which abandoned, lost, stolen and destroyed United States savings bonds may escheat to the state; requiring the State Treasurer to commence a civil action for a determination that a United States savings bond shall escheat to the state; requiring service by publication; providing that claimants may appear in court to defend their right to the subject bond or bonds; requiring the court to enter a judgment vesting title in the state if the State Treasurer has substantially complied with required procedure and no valid claim is made for a United States savings bond; requiring the Treasurer to redeem United States savings bonds that have escheated to the state; permitting the State Treasurer to pay collection and recovery costs from United States savings bond proceeds; requiring the State Treasurer to deposit remaining balance of proceeds into the Unclaimed Property Fund; permitting persons to file claims for escheated United States savings bonds or proceeds thereof after a United States savings bond has escheated to the state; and barring subsequent actions against the state after payment has been made to a claimant.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 2193, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale,

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

The nays were: None.

Absent: Boley, Boso, Palumbo, and Sypolt—4.

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 H. B. 2193) 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 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 Senate Bill 405, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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

Delegates Pack, Bibby, and Tomblin.

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 July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 499, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

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

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

On page three, section three, line three, after the word “coal” by changing the comma to a semicolon and inserting the words “(3) the”;

And by renumbering the remaining subdivisions;

On page three, section three, line twenty, by striking out “11-10-5-f” and inserting in lieu thereof “§11-10-5f”;

On page fourteen, section fifteen, line twenty-nine, after §11-21-1 et seq.” by inserting a comma;

On page seventeen, section eighteen-c, lines three and four, by striking out the words “tracking report under IRC § 6226(b)(4)(a)” and inserting in lieu thereof the words “report under §11-21A-3 of this code”;

On page thirty-nine, section fifty-nine, line one, by striking out the word “If” and inserting in lieu thereof the words “Unless the provision of §11-21A-1 et seq. of this code apply, if”;

On page fifty-two, section one, line nineteen, after the word “that” by inserting the word “is”;

On page sixty-six, section twenty, line one, by striking out the word “If” and inserting in lieu thereof the words “Unless the provision of §11-21A-1 et seq. of this code apply, if”;

On page sixty-seven, section twenty, lines twenty-one through twenty-six, by striking out all of subsections (c) and (d) and inserting in lieu thereof the following:

(c) For the purposes of this section, assessments under a partial agreement, closing agreement covering specific matters, jeopardy or advance payment are considered part of the final determination and must be submitted to the Tax Commissioner with the final determination.

(d) If a partial agreement, a closing agreement covering specific matters or any other agreement with the United States Treasury Department would be final except for a federal extension still open for flow through adjustments from other entities or other jurisdictions, the final determination is the date the taxpayer signs the agreement. Flow-through adjustments include, but are not limited to, items of income gain, loss and deduction that flow through to equity owners, of a partnership, or other passthrough entity. Flow through adjustments are finally determined based on criteria specified in §11-24-20(g) of this code.

(e) The Tax Commissioner is not required to issue refunds based on any agreement other than a final determination.

(f) If a taxpayer has filed an amended federal return, and no corresponding West Virginia amended return has been filed with the Tax Commissioner, then the period of limitations for issuing a notice of assessment shall be reopened and shall not expire until three years from the date of delivery to the Tax Commissioner by the taxpayer of the amended federal return. However, upon the expiration of the period of limitations as provided in §11-10-15 of this code, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return shall be subject to adjustment for purposes of recomputing West Virginia income, deductions, gains, losses, credits, and the effect of such adjustments on West Virginia allocations and apportionments.

(g) For the purposes of this section, “final determination” means the appeal rights of both parties have expired or have been exhausted relative to the tax year for federal income tax purposes.

(h) The amendments made to this section in the year 2019 shall apply, without regard to taxable year, to federal determinations that become final on or after the effective date of the amendments to this section in the year 2019.;

And,

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

Eng. Senate Bill 499—A Bill to amend and reenact §11-10-3, §11-10-4, §11-10-7, §11-10-14, §11-10-15, and §11-10-16 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-10-18c; to amend and reenact §11-21-3,

§11-21-51a, §11-21-59, and §11-21-71a of said code; to amend said code by adding thereto four new sections, designated §11-21-37a, §11-21-37b, §11-21-37c, and §11-21-59a; to amend said code by adding thereto a new article, designated §11-21A-1, §11-21A-2, §11-21A-3, §11-21A-4, §11-21A-5, §11-21A-6, §11-21A-7, §11-21A-8, §11-21A-9, §11-21A-10, §11-21A-11, and §11-21A-12; and to amend and reenact §11-24-20 of said code, all relating generally to amending West Virginia tax laws to conform to changes in how partnerships and their partners and other pass-through entities and their equity owners are treated for federal income tax purposes for tax years beginning after December 31, 2017; amending West Virginia Tax Procedures and Administration Act, Personal Income Tax Act, and Corporation Net Income Tax Act to provide for administration, collection, and enforcement of income tax on certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes and their partners and equity owners in conformity with changes made by United States Congress in how these entities and their equity owners are treated for federal income tax purposes for taxable years beginning after December 31, 2017; providing for application of West Virginia Tax Procedure and Administration Act to apply to imputed income taxes imposed on partnerships and other pass-through entities; imposing addition to tax for failure of partnership and other pass-through entity to file partnership's returns and reports; imposing imputed personal income tax on certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes based on federal audit adjustments; providing general rules and special rules for allocation and apportionment of business income; providing for filing of amended composite personal income tax returns by pass-through entities on behalf of nonresident equity owners; providing additional rules for reporting of federal changes to federal taxable incomes; providing amended rules for reporting of federal adjustments by Internal Revenue Service or other competent authority; providing rules for reporting adjustments by other states' resident claims credit for tax paid to another state; providing for pass-through entity withholding on nonresidents when partnership or other pass-through entity pushes federal audit adjustments out to equity owners; adding a new article providing for administration, collection, and enforcement of additional West Virginia income taxes from certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes, or their equity owners, that are attributable to federal audit adjustments; defining certain terms; providing for reporting of adjustments to federal taxable income; providing for reporting of federal audit adjustments resulting from federal audit of pass-through entity or from administrative adjustment requests; providing for assessment of additional West Virginia income taxes, interest, and additions to tax arising from federal adjustments to federal taxable income within applicable statute of limitations; allowing payment of estimated West Virginia income tax payments during course of federal audit of certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing for refund or credit of West Virginia income taxes attributable to finalized federal audit adjustments; providing rules for scope of audit adjustments and extensions of time; specifying effective dates; providing for legislative, interpretive, and procedural rules; providing for Tax Procedures and Administration Act and Tax Crimes and Penalties Act to apply to imputed income tax imposed on certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing additional rules for reporting of changes in federal taxable income of corporations; making technical corrections in existing code sections being amended; and specifying effective dates.

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

Engrossed Senate Bill 499, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Boley, Boso, Maynard, Palumbo, Sypolt, and Woelfel—6.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 499) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Boley, Boso, Maynard, Palumbo, Sypolt, and Woelfel—6.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 499) takes effect July 1, 2019.

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

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 7:40 p.m. tonight:

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

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 to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 538, Relating to WV Highway Design-Build Pilot Program.

On motion of Senator Takubo, 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 538—A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating generally to the West Virginia Highway Design-Build Pilot Program; modifying and defining monetary project limits of the program and changing

terminology; allowing exceptions for declared states of emergency; and allowing use of the program with limits for projects financed with and without bonds.

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

Engrossed Committee Substitute for Senate Bill 538, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Boley, Boso, Palumbo, and Sypolt—4.

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. 538) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Boley, Boso, Palumbo, and Sypolt—4.

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. 538) 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 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

On motion of Senator Takubo, 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 section and inserting in lieu thereof the following:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

§5-10D-1. Consolidated Public Retirement Board continued; members; vacancies; investment of plan funds.

(a) The Consolidated Public Retirement Board is continued to administer all public retirement plans in this state. It shall administer the Public Employees Retirement System established in §5-10-1 *et seq.* of this code; the Teachers Retirement System established in §18-7A-1 *et seq.* of this code; the Teachers' Defined Contribution Retirement System created by §18-7B-1 *et seq.* of said code; the West Virginia State Police Death, Disability and Retirement Fund created by §15-2-1 *et seq.* of this code; the West Virginia State Police Retirement System created by §15-2A-1 *et seq.* article two-a of said code; the Deputy Sheriff Death, Disability and Retirement Fund created by article fourteen-d, chapter seven §7-14D-1 *et seq.* of this code; the Judges' Retirement System created under §51-9-1 *et seq.* of this code; the Emergency Medical Services Retirement System established in §16-5V-1 *et seq.* of this code; and the Municipal Police Officers and Firefighters Retirement System established in §8-22A-1 *et seq.* of this code.

(b) The membership of the Consolidated Public Retirement Board consists of:

(1) The Governor or his or her designee;

(2) The State Treasurer or his or her designee;

(3) The State Auditor or his or her designee;

(4) The Secretary of the Department of Administration or his or her designee;

(5) Four residents of the state, who are not members, retirants or beneficiaries of any of the public retirement systems, to be appointed by the Governor, with the advice and consent of the Senate; and

(6) A member, annuitant or retirant of the Public Employees Retirement System who is or was a state employee; a member, annuitant or retirant of the Public Employees Retirement System who is not or was not a state employee; a member, annuitant or retirant of the Teachers Retirement System; a member, annuitant or retirant of the West Virginia State Police Death, Disability and Retirement Fund; a member, annuitant or retirant of the West Virginia State Police Retirement System; a member, annuitant or retirant of the Deputy Sheriff Death, Disability and Retirement Fund; a member, annuitant or retirant of the Teachers' Defined Contribution Retirement System; a member, annuitant or retirant of the Emergency Medical Services Retirement System; and beginning as soon as practicable after January 1, 2010, one person who is a member, annuitant or retirant of a municipal policemen's or firemen's pension and relief fund or the West Virginia Municipal Police Officers and Firefighters Retirement System, all to be appointed by the Governor, with the advice and consent of the Senate. The Governor shall choose the member representing the municipal policemen's or firemen's pension and relief fund or the West Virginia Municipal Police Officers and Firefighters Retirement System from two names submitted by the state's largest organization of professional police officers and two names submitted by the state's largest organization of professional firefighters. Representation of the

municipal police officers and firefighters shall alternate after each term on the board between persons having police officer and firefighter affiliation so that each professional group is represented on the board every other term.

All appointees to the board shall have recognized competence or significant experience in pension management or administration, actuarial analysis, institutional management or accounting. Those members appointed prior to January 1, 2010, shall be considered to have met these qualifications. One trustee shall be an attorney experienced in finance and pension matters and one trustee shall be a certified public accountant. Each member of the board must complete annual fiduciary training and timely complete any conflict of interest forms required to serve as a trustee.

(c) The appointed members of the board shall serve five-year terms. A member appointed pursuant to subdivision (6), subsection (b) of this section ceases to be a member of the board if he or she ceases to be a member of the represented system. If a vacancy occurs in the appointed membership, the Governor, within sixty days, shall fill the vacancy by appointment for the unexpired term. No more than six appointees may be of the same political party.

(d) The Consolidated Public Retirement Board has all the powers, duties, responsibilities and liabilities of the Public Employees Retirement System established pursuant to §5-10-1 *et seq.* of this code; the Teachers Retirement System established pursuant to §18-7A-1 *et seq.* of this code; the Teachers' Defined Contribution Retirement System established pursuant to §18-7B-1 *et seq.* of this code; the West Virginia State Police Death, Disability and Retirement Fund created pursuant to §15-2-1 *et seq.* of this code; the West Virginia State Police Retirement System created by §15-2A-1 *et seq.* of this code; the Deputy Sheriff Death, Disability and Retirement Fund created pursuant to §7-14D-1 *et seq.* of this code; the Judges' Retirement System created pursuant to §51-9-1 *et seq.* of this code; the Emergency Medical Services Retirement System established in §16-5V-1 *et seq.* of this code; and the Municipal Police Officers and Firefighters Retirement System created pursuant to §8-22A-1 *et seq.* of this code, and their appropriate governing boards.

(e) The Consolidated Public Retirement Board may propose rules for legislative approval, in accordance with §29A-3-1 *et seq.* of this code, necessary to effectuate its powers, duties and responsibilities: *Provided*, That the board may adopt any or all of the rules, previously promulgated, of a retirement system which it administers.

(f) (1) The Consolidated Public Retirement Board shall continue to transfer all funds received for the benefit of the retirement systems, including, but not limited to, all employer and employee contributions, to the West Virginia Investment Management Board: *Provided*, That the employer and employee contributions of the Teachers' Defined Contribution Retirement System, established in §18-7B-3 of this code, and voluntary deferred compensation funds invested by the West Virginia Consolidated Public Retirement Board pursuant to §5-10B-5 of this code may not be transferred to the West Virginia Investment Management Board.

(2) The board may recover from a participating employer that fails to pay any amount due a retirement system in a timely manner the contribution due and an additional amount not to exceed interest or other earnings lost as a result of the untimely payment, or a reasonable minimum fee, whichever is greater, as provided by legislative rule promulgated pursuant to the provisions of §29A-3-1 *et seq.* of this code. Any amounts recovered shall be administered in the same manner in which the amount due is required to be administered.

(g) Notwithstanding any provision of this code or any legislative rule to the contrary, all assets of the public retirement plans set forth in subsection (a) of this section shall be held in trust. The Consolidated Public Retirement Board is a trustee for all public retirement plans, except with regard to the investment of funds: *Provided*, That the Consolidated Public Retirement Board is a trustee with regard to the investments of the Teachers' Defined Contribution Retirement System and any other assets of the public retirement plans administered by the Consolidated Public Retirement Board as set forth in subsection (a) of this section for which no trustee has been expressly designated in this code.

(h) The board may employ the West Virginia Investment Management Board to provide investment management consulting services for the investment of funds in the Teachers' Defined Contribution Retirement System.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-6. Retirement; commencement of benefits.

(a) A member may retire with full benefits upon attaining the age of fifty and completing twenty-five or more years of service or attaining the age of fifty-two and completing twenty years or more of service by filing with the board his or her voluntary application in writing for retirement. A member who is less than age fifty-two may retire upon completing twenty years or more of service: *Provided*, That he or she will receive a reduced benefit that is of equal actuarial value to the benefit the member would have received if the member deferred commencement of his or her accrued retirement benefit to the age of fifty-two.

(b) When the board retires a member with full benefits under the provisions of this section, the board, by order in writing, shall make a determination that the member is entitled to receive an annuity equal to two and three-fourths percent of his or her final average salary multiplied by the number of years, and fraction of a year, of his or her service at the time of retirement; *Provided*, That beginning July 1, 2019, the member is entitled to receive an annuity equal to three percent of this or her final average salary multiplied by the number of years, and fraction of a year, of his or her service at the time of retirement: *Provided, however*, That the amendments to this subsection enacted during the 2019 regular session of the Legislature apply to current retirants. Any annuity calculated pursuant to the provisions of this subsection are subject to reduction if necessary to comply with the maximum benefit provisions of Section 415 of the Internal Revenue Code and section six-a of this article. The retirant's annuity shall begin the first day of the calendar month following the month in which the member's application for the annuity is filed with the board on or after his or her attaining age and service requirements and termination of employment.

(c) In no event may the provisions of section thirteen, article sixteen, chapter five of this code be applied in determining eligibility to retire with either a deferred or immediate commencement of benefit.;

And,

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

Eng. Com. Sub. for Senate Bill 539—A Bill to amend and reenact §5-101D-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-2A-6 of said code, all relating

to the West Virginia State Police Retirement System; increasing accrued benefit of retirees in the West Virginia State Police Retirement System on a certain date; and adding a member to the Consolidated Public Retirement Board who is a member, annuitant or retirant of the West Virginia State Police Retirement System.

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

Engrossed Committee Substitute for Senate Bill 539, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Boley, Boso, Palumbo, and Sypolt—4.

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. 539) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 550, Declaring certain claims to be moral obligations of state.

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

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

On page two, item (7), by striking out the word "Hensley-Johnson" and inserting in lieu thereof the word "Helsley-Johnson".

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

Engrossed Senate Bill 550, as amended by the House of Delegates, was then put upon its passage.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is an undertaker.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Boso—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 550) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Boso—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 550) takes effect from passage.

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

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 7:46 p.m. tonight:

Eng. Com. Sub. for Senate Bill 405, Increasing limit on additional expenses incurred in preparing notice list for redemption

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

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

Eng. Senate Bill 554, Removing salary caps for director of State Rail Authority.

On motion of Senator Takubo, 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 section and inserting in lieu thereof the following:

ARTICLE 18. WEST VIRGINIA STATE RAIL AUTHORITY.**§29-18-4a. Supervision of West Virginia State Rail Authority; executive director's salary set by the authority compensation.**

~~The West Virginia State Rail Authority is under the supervision of the Secretary of the Department of Transportation pursuant to the provisions of §5F-1-1 of this code. Notwithstanding any other provisions of this code to the contrary, the salary of the Executive Director of the State Rail Authority shall be set by the authority. *Provided*, That the salary set by the State Rail Authority for the Executive Director may not be less than \$60,000 and not more than \$70,000 per year;~~

And,

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

Eng. Senate Bill 554—A Bill to amend and reenact §29-18-4a of the Code of West Virginia, 1931, as amended, relating to supervision of the West Virginia State Rail Authority by Secretary of the Department of Transportation pursuant to law; and removing range of amounts from which salary is set for Executive Director of Authority.

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

Engrossed Senate Bill 554, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 554) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange.

On motion of Senator Takubo, 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 section and inserting in lieu thereof the following:

ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY TRANSMISSION SERVICES, TRANSPORTATION AND CURRENCY EXCHANGE.

§32A-2-3. Exemptions.

(a) The following are exempt from the provisions of this article:

(1) Banks, trust companies, foreign bank agencies, credit unions, savings banks, and savings and loan associations authorized to do business in the state or which qualify as federally insured depository institutions, whether organized under the laws of this state, any other state, or the United States;

(2) The United States and any department or agency of the United States;

(3) The United States Postal Service;

(4) This state and any political subdivision of this state;

(5) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any department, agency, or instrumentality of the United States, or any state or any political subdivisions of a state;

(6) Persons engaged solely in the business of currency transportation who operate an armored car service in this state pursuant to licensure under §30-18-1 *et seq.* of this code: *Provided*, That the net worth of the licensee exceeds \$5 million. The term "armored car service" as used in this article means a service provided by a person transporting or offering to transport, under armed security guard, currency or other things of value in a motor vehicle specially equipped to offer a high degree of security. Persons seeking to claim this exemption shall notify the commissioner of their intent to do so and demonstrate that they qualify for its use. Persons seeking an exemption under this subdivision are not exempt from the provisions of this article if they also engage in currency exchange or currency transmission;

(7) Persons engaged in the business of currency transportation whose activities are limited exclusively to providing services to federally insured depository institutions, or to any federal, state, or local governmental entities;

(8) Persons engaged solely in the business of removing currency from vending machines providing goods or services, if the machines are not used for gambling purposes or to convey any gambling ticket, token, or other device used in a game of chance;

(9) The State Regulatory Registry, LLC, which administers the Nationwide Mortgage Licensing System and Registry on behalf of states and federal banking regulators; ~~and~~

(10) The North American Securities Administrators Association and any subsidiaries, which administer the Electronic Filing Depository system on behalf of state securities regulators; and

(11)(A) Persons operating a payment system that provides processing, clearing, or settlement services, between or among persons who are all excluded by this section, in connection with wire

transfers, credit card transactions, debit card transactions, prepaid access transactions, automated clearinghouse transfers, or similar funds transfers;

(B) Contracted service providers of an entity set forth in §32A-2-3(a)(1) of this code that provide processing, clearing, or settlement services in connection with wire transfers, credit card transactions, debit card transactions, prepaid access transactions, automated clearinghouse transfers, or similar funds transfers; or

(C) Persons facilitating payment for goods or services (not including currency transmission or money transmission itself) pursuant to a contract with the payee and either payment to the person or persons facilitating the payment processing satisfies the payor's obligation to the payee or that obligation is extinguished.

(b) Any person who holds and maintains a valid license under this article may engage in the business of money transmission or currency exchange at one or more locations through or by means of an authorized delegate or delegates as set forth in §32A-2-27 of this code, as the licensee may designate and appoint from time to time. No such authorized delegate is required to obtain a separate license under this article, but the use of sub-delegates is prohibited and the authorized delegate may only conduct business on behalf of its licensee.

(c) The issuance and sale of stored value cards or similar prepaid products which are intended to purchase items only from the issuer or seller of the stored value card is exempt from the provisions of this article.

(d) Any person who is required and properly obtains a license under this article to transport currency is exempt from the requirements of §30-18-1 *et seq.* of this code.

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

Engrossed Committee Substitute for Senate Bill 603, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 603) passed with its title.

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

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 7:58 p.m. tonight:

Eng. Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

On motion of Senator Takubo, at 7:59 p.m., the Senate recessed for 45 minutes.

The Senate reconvened at 8:54 p.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended 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 Com. Sub. for Senate Bill 90, Transferring Safety and Treatment Program from DHHR to DMV.

On motion of Senator Takubo, 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 section and inserting in lieu thereof the following:

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-3c. Suspending license for failure to pay fines or penalties imposed as the result of criminal conviction or for failure to appear in court.

(a) The Division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court, magistrate court or municipal court of this state, pursuant to §50-3-2b, §8-10-2b or §62-4-17 of this code, that ~~such the~~ person has defaulted on the payment of costs, fines, forfeitures, penalties or restitution imposed on the person by the circuit court, magistrate court or municipal court upon conviction for any criminal offense by the date ~~such the~~ court had required ~~such the~~ person to pay the same, or that ~~such the~~ person has failed to appear in court when charged with ~~such~~ an offense. For the purposes of this section; §50-3-2b; §8-10-2b; and §62-4-17 of this code, "criminal offense" shall be defined as any violation of the provisions of this code, or the violation of any municipal ordinance, for which the violation ~~thereof of the offense~~ may result in a fine, confinement in jail or imprisonment in a correctional facility of this state: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a criminal offense for the purposes of this section; §8-10-2b; §50-3-2b; or §62-4-17 of this code.

(b) A copy of the order of suspension shall be forwarded to ~~such the~~ person by certified mail, return receipt requested. No order of suspension becomes effective until 10 days after receipt of a copy of ~~such the~~ order. The order of suspension shall advise the person that because of the receipt of notice of the failure to pay costs, fines, forfeitures or penalties, or the failure to appear, a presumption exists that the person named in the order of suspension is the same person named in the notice. The Commissioner may grant an administrative hearing which substantially complies

with the requirements of the provisions §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. ~~Such~~ The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing shall be for the person requesting the hearing to present evidence that he or she is not the person named in the notice. In the event the Commissioner grants an administrative hearing, the Commissioner shall stay the license suspension pending the Commissioner's order resulting from the hearing.

(c) A suspension under this section and section three-a of this chapter will continue until the person provides proof of compliance from the municipal, magistrate or circuit court and pays the reinstatement fee as provided in §17B-3-9. The reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date of suspension.

(d) Upon notice from an appropriate state official that the person is successfully participating in an approved treatment and job program as prescribed in §61-11-26a and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or supersede the imposition of any suspension under this section or §17B-3-3a of this code. The Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-3-9 upon receipt of proper documentation of the persons successful completion of a program under §61-11-26a and proof of compliance from the municipal, magistrate or circuit court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt of notice from an appropriate state official of a participant's failure to complete or comply with the approved treatment and job program as established under §61-11-26a.

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES, OR DRUGS.

§17C-5A-3. Safety and treatment program; reissuance of license.

(a) ~~The Department of Health and Human Resources, Division of Alcoholism and Drug Abuse~~ Division of Motor Vehicles shall administer a comprehensive safety and treatment program for persons whose licenses have been revoked under the provisions of this article or §17C-5-7 or §17B-3-5(6) of this code and shall also establish the minimum qualifications for mental health facilities, day report centers, community correction centers or other public agencies or private entities conducting the safety and treatment program: *Provided*, That the ~~Department of Health and Human Resources, Division of Alcoholism and Drug Abuse~~ Division of Motor Vehicles may establish standards whereby the division will accept or approve participation by violators in another treatment program which provides the same or substantially similar benefits as the safety and treatment program established pursuant to this section.

(b) The program shall include, but not be limited to, treatment of alcoholism, alcohol and drug abuse, psychological counseling, educational courses on the dangers of alcohol and drugs as they relate to driving, defensive driving or other safety driving instruction and other programs designed to properly educate, train and rehabilitate the offender. *Provided*, that successful compliance with the substance abuse and counseling program prescribed in §61-11-26a is sufficient to meet the requirements of this section.

(c) ~~The Department of Health and Human Resources, Division of Alcoholism and Drug Abuse~~ Division of Motor Vehicles shall provide for the preparation of an educational and treatment the program for each person whose license has been revoked under the provisions of this article or

§17C-5-7 or §17B-3-5(6) of this code which shall contain the following: (1) A listing and evaluation of the offender's prior traffic record; (2) the characteristics and history of alcohol or drug use, if any; (3) his or her amenability to rehabilitation through the alcohol safety program; and (4) a recommendation as to treatment or rehabilitation and the terms and conditions of the treatment or rehabilitation. The program shall be prepared by persons knowledgeable in the diagnosis of alcohol or drug abuse and treatment.

(d) There is hereby created a special revenue account within the State Treasury known as the ~~Department of Health and Human Resources~~ Division of Motor Vehicles Safety and Treatment Fund. The account shall be administered by the ~~Secretary~~ Commissioner of the ~~Department of Health and Human Resources~~ Division of Motor Vehicles for the purpose of administering the comprehensive safety and treatment program established by subsection (a) of this section. The account may be invested, and all earnings and interest accruing shall be retained in the account. The Auditor shall conduct an audit of the fund at least every three fiscal years.

~~Effective July 1, 2010, the State Treasurer shall make a one-time transfer of \$250,000 from the Motor Vehicle Fees Fund into the Department of Health and Human Resources Safety and Treatment Fund. Effective July 1, 2019, all moneys held in the Department of Health and Human Resources Safety and Treatment Fund shall be transferred to the Division of Motor Vehicles Safety and Treatment Fund.~~

(e) (1) The program provider shall collect the established fee from each participant upon enrollment unless the ~~department~~ division has determined that the participant is an indigent based upon criteria established pursuant to legislative rule authorized in this section.

(2) If the ~~department~~ division determined that a participant is an indigent based upon criteria established pursuant to the legislative rule authorized by this section, the department shall provide the applicant with proof of its determination regarding indigency, which proof the applicant shall present to the interlock provider as part of the application process provided in §17C-5A-3a of this article code and/or the rules promulgated pursuant thereto.

(3) Program providers shall remit to the ~~Department of Health and Human Resources~~ Division of Motor Vehicles a portion of the fee collected, which shall be deposited by the ~~Secretary of the Department of Health and Human Resources~~ Commissioner of the Division of Motor Vehicles into the ~~Department of Health and Human Resources~~ Division of Motor Vehicles Safety and Treatment Fund. The ~~Department of Health and Human Resources~~ Division of Motor Vehicles shall reimburse enrollment fees to program providers for each eligible indigent offender.

(f) On or before January 15 of each year, the ~~Secretary of the Department of Health and Human Resources~~ Commissioner of the Division of Motor Vehicles shall report to the Legislature on:

(1) The total number of offenders participating in the safety and treatment program during the prior year;

(2) The total number of indigent offenders participating in the safety and treatment program during the prior year;

(3) The total number of program providers during the prior year; and

(4) The total amount of reimbursements paid to program provider during the prior year.

(g) The Commissioner of the Division of Motor Vehicles, after giving due consideration to the program developed for the offender, shall prescribe the necessary terms and conditions for the reissuance of the license to operate a motor vehicle in this state revoked under this article or §17C-5-7 or §17B-3-5(6) of this code which shall include successful completion of the educational, treatment or rehabilitation program, subject to the following:

(1) When the period of revocation is six months, the license to operate a motor vehicle in this State may not be reissued until: (A) At least ninety days have elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all costs assessed as a result of a revocation hearing have been paid.

(2) When the period of revocation is for a period of one year or for more than a year, the license to operate a motor vehicle in this state may not be reissued until: (A) At least one-half of the time period has elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all costs assessed as a result of a revocation hearing have been paid. Notwithstanding any provision in this code, a person whose license is revoked for refusing to take a chemical test as required by §17C-5-7 for a first offense is not eligible to reduce the revocation period by completing the safety and treatment program.

(3) When the period of revocation is for life, the license to operate a motor vehicle in this State may not be reissued until: (A) At least 10 years have elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all costs assessed as a result of a revocation hearing have been paid.

(4) Notwithstanding any provision of this code or any rule, any mental health facilities or other public agencies or private entities conducting the safety and treatment program when certifying that a person has successfully completed a safety and treatment program shall only have to certify that the person has successfully completed the program.

(h) (1) ~~The Department of Health and Human Resources, Division of Alcoholism and Drug Abuse~~ Division of Motor Vehicles shall provide for the preparation of an educational program for each person whose license has been suspended for sixty days pursuant to the provisions of §17C-5A-2(n) of this ~~chapter~~ code. The educational program shall consist of not less than 12 nor more than 18 hours of actual classroom time.

(2) When a 60-day period of suspension has been ordered, the license to operate a motor vehicle may not be reinstated until: (A) At least 60 days have elapsed from the date of the initial suspension, during which time the suspension was ~~actually~~ in effect; (B) the offender has successfully completed the educational program; (C) all costs of the program and administration have been paid; and (D) all costs assessed as a result of a suspension hearing have been paid.

(i) A required component of the treatment program provided in §17C-5A-3(b) and the education program provided for in §17C-5A-3(c) shall be participation by the violator with a victim impact panel program providing a forum for victims of alcohol and drug-related offenses and offenders to share first-hand experiences on the impact of alcohol and drug-related offenses in their lives. ~~The Department of Health and Human Resources, Division of Alcoholism and Drug Abuse~~ Division of Motor Vehicles shall propose and implement a plan for victim impact panels where appropriate numbers of victims are available and willing to participate and shall establish

guidelines for other innovative programs which may be substituted where the victims are not available to assist persons whose licenses have been suspended or revoked for alcohol and drug-related offenses to gain a full understanding of the severity of their offenses in terms of the impact of the offenses on victims and offenders. The plan shall require, at a minimum, discussion and consideration of the following:

- (1) Economic losses suffered by victims or offenders;
- (2) Death or physical injuries suffered by victims or offenders;
- (3) Psychological injuries suffered by victims or offenders;
- (4) Changes in the personal welfare or familial relationships of victims or offenders; and
- (5) Other information relating to the impact of alcohol and drug-related offenses upon victims or offenders.

~~The Department of Health and Human Resources, Division of Alcoholism and Drug Abuse Division of Motor Vehicles~~ shall ensure that any meetings between victims and offenders shall be nonconfrontational and ensure the physical safety of the persons involved.

(j) (1) ~~The Secretary of the Department of Health and Human Resources~~ Commissioner of the Division of Motor Vehicles shall promulgate a rule for legislative approval in accordance with article three, chapter twenty-nine-a of this code to administer the provisions of this section and establish a fee to be collected from each offender enrolled in the safety and treatment program. The rule shall include: (A) A reimbursement mechanism to program providers of required fees for the safety and treatment program for indigent offenders, criteria for determining eligibility of indigent offenders, and any necessary application forms; and (B) program standards that encompass provider criteria including minimum professional training requirements for providers, curriculum approval, minimum course length requirements and other items that may be necessary to properly implement the provisions of this section.

(2) The Legislature finds that an emergency exists and, therefore, the ~~Secretary~~ Commissioner shall file by July 1, ~~2010~~ 2019, an emergency rule to implement this section pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

(k) Nothing in this section may be construed to prohibit day report or community correction programs, authorized pursuant to article eleven-c, chapter sixty-two of this code, from administering a comprehensive safety and treatment program pursuant to this section.

~~(l) The Division of Motor Vehicles shall provide fair, impartial, and expeditious grievance and appellate procedures for participants of the Safety and Treatment Program who wish to challenge an adverse decision by the agency conducting the program that negatively affects, or unnecessarily delays, the participant's outcome in that program. After all administrative remedies provided by this article or its related promulgated rules have been exhausted, participants who have been deemed unsuccessful in the program, rendering them ineligible for license reinstatement, or whose outcomes in the program have been unnecessarily delayed, are entitled to judicial review or the adverse decisions in the regular courts of this state, pursuant to §29A-5-4 of this code. The Commissioner of the Division of Motor Vehicles is hereby authorized to promulgate rules related to the grievance and appellate procedures referenced in this subsection.~~

§17C-5A-3a. Establishment of and participation in the Motor Vehicle Alcohol Test and Lock Program.

(a) (1) The Division of Motor Vehicles shall control and regulate a Motor Vehicle Alcohol Test and Lock Program for persons whose licenses have been revoked pursuant to this article or the provisions of §17C-5-1 *et. seq.* of this code or have been convicted under §17C-5-2 of this code, or who are serving a term of a conditional probation pursuant to §17C-5-2b of this code.

(2) The program shall include the establishment of a user's fee for persons participating in the program which shall be paid in advance and deposited into the Driver's Rehabilitation Fund: *Provided*, That on and after July 1, 2007, any unexpended balance remaining in the Driver's Rehabilitation Fund shall be transferred to the Motor Vehicle Fees Fund created under the provisions of §17A-2-21 of this code and all further fees collected shall be deposited in that fund.

(3) (A) Except where specified otherwise, the use of the term "program" in this section refers to the Motor Vehicle Alcohol Test and Lock Program.

(B) The Commissioner of the Division of Motor Vehicles shall propose legislative rules for promulgation in accordance with the provisions of §29A-1-1 of this code for the purpose of implementing the provisions of this section. The rules shall also prescribe those requirements which, in addition to the requirements specified by this section for eligibility to participate in the program, the commissioner determines must be met to obtain the commissioner's approval to operate a motor vehicle equipped with a motor vehicle alcohol test and lock system.

(C) Nothing in this section may be construed to prohibit day report or community correction programs authorized pursuant to §62-11C-1 *et. seq.*, or a home incarceration program authorized pursuant to §62-11B-1 *et. seq.* of this code, from being a provider of motor vehicle alcohol test and lock systems for eligible participants as authorized by this section.

(4) For purposes of this section, a "motor vehicle alcohol test and lock system" means a mechanical or computerized system which, in the opinion of the commissioner, prevents the operation of a motor vehicle when, through the system's assessment of the blood alcohol content of the person operating or attempting to operate the vehicle, the person is determined to be under the influence of alcohol.

(5) The fee for installation and removal of ignition interlock devices shall be waived for persons determined to be indigent by the ~~Department of Health and Human Resources~~ Division of Motor Vehicles pursuant to §17C-5A-3 of this code. The commissioner shall establish by legislative rule, proposed pursuant to §29A-3-1 *et. seq.* of this code, procedures to be followed with regard to persons determined by the ~~Department of Health and Human Resources~~ Division of Motor Vehicles to be indigent. The rule shall include, but is not limited to, promulgation of application forms; establishment of procedures for the review of applications; and the establishment of a mechanism for the payment of installations for eligible offenders.

(6) On or before January 15 of each year, the Commissioner of the Division of Motor Vehicles shall report to the Legislature on:

(A) The total number of offenders participating in the program during the prior year;

(B) The total number of indigent offenders participating in the program during the prior year;

(C) The terms of any contracts with the providers of ignition interlock devices; and

(D) The total cost of the program to the state during the prior year.

(b) (1) Any person whose license is revoked for the first time pursuant to this article or the provisions of §17C-5-1 *et. seq.* of this code is eligible to participate in the program when the person's minimum revocation period as specified by §17C-5A-3a(c) has expired and the person is enrolled in or has successfully completed the safety and treatment program or presents proof to the commissioner within 60 days of receiving approval to participate by the commissioner that he or she is enrolled in a safety and treatment program: *Provided*, That anyone whose license is revoked for the first time for driving with a blood alcohol concentration of 0.15 percent or more, by weight, must participate in the program when the person's minimum revocation period as specified by §17C-5A-3a(c) has expired and the person is enrolled in or has successfully completed the safety and treatment program or presents proof to the commissioner within 60 days of receiving approval to participate by the commissioner that he or she is enrolled in a safety and treatment program.

(2) Any person whose license has been suspended for driving a motor vehicle while under the age of 21 years with an alcohol concentration in his or her blood 0.02 percent or more, by weight, but less than 0.08 percent, by weight, is eligible to participate in the program after 30 days have elapsed from the date of the initial suspension, during which time the suspension was actually in effect: *Provided*, That in the case of a person under the age of 18, the person is eligible to participate in the program after 30 days have elapsed from the date of the initial suspension, during which time the suspension was actually in effect or after the person's 18th birthday, whichever is later. Before the commissioner approves a person to operate a motor vehicle equipped with a motor vehicle alcohol test and lock system, the person must agree to comply with the following conditions:

(A) If not already enrolled, the person shall enroll in and complete the educational program provided in §17C-5A-3(d) of this code at the earliest time that placement in the educational program is available, unless good cause is demonstrated to the commissioner as to why placement should be postponed;

(B) The person shall pay all costs of the educational program, any administrative costs and all costs assessed for any suspension hearing.

(3) Notwithstanding the provisions of this section to the contrary, a person eligible to participate in the program under this subsection may not operate a motor vehicle unless approved to do so by the commissioner.

(c) A person who participates in the program under §17C-5A-3a(b)(1) of this code is subject to a minimum revocation period and minimum period for the use of the ignition interlock device as follows:

(1) For a person whose license has been revoked for a first offense for six months for driving under the influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or with a blood alcohol concentration of 0.08 percent, by weight, but less 0.15 percent, by weight, the minimum period of revocation for participation in the test and lock program is 15 days and the minimum period for the use of the ignition interlock device is 125 days;

(2) For a person whose license has been revoked for a first offense for refusing a secondary chemical test, the minimum period of revocation for participation in the test and lock program is 45 days and the minimum period for the use of the ignition interlock device is one year;

(3) For a person whose license has been revoked for a first offense for driving with a blood alcohol concentration of 0.15 percent or more, by weight, the minimum period of revocation for participation in the test and lock program is 45 days and the minimum period for the use of the ignition interlock device is 270 days;

(4) For a person whose license has been revoked for a first offense for driving under the influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or with a blood alcohol concentration of 0.08 percent or more, by weight, or did drive a motor vehicle while under the age of 21 years with an alcohol concentration in his or her blood of 0.02 percent or more, by weight, but less than 0.08 percent, by weight, and while driving does any act forbidden by law or fails to perform any duty imposed by law, which act or failure proximately causes the death of any person within one year next following the act or failure, and commits the act or failure in reckless disregard of the safety of others and when the influence of alcohol, controlled substances or drugs is shown to be a contributing cause to the death, the minimum period of revocation before the person is eligible for participation in the test and lock program is 12 months and the minimum period for the use of the ignition interlock device is two years;

(5) For a person whose license has been revoked for a first offense for driving under the influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes the death of any person within one year next following the act or failure, the minimum period of revocation is six months and the minimum period for the use of the ignition interlock device is two years;

(6) For a person whose license has been revoked for a first offense for driving under the influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes bodily injury to any person other than himself or herself, the minimum period of revocation for participation in the program is two months and the minimum period for the use of the ignition interlock device is one year;

(7) For a person whose license has been revoked for a first offense for driving under the influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving has on or within the motor vehicle one or more other persons who are unemancipated minors who have not reached their 16th birthday, the minimum period of revocation for participation in the program is two months and the minimum period for the use of the ignition interlock device is 10 months.

(d) Notwithstanding any provision of the code to the contrary, a person shall participate in the program if the person is convicted under §17C-5-2 or the person's license is revoked under §17C-5A-2 or §17C-5-7 of this code and the person was previously either convicted or his or her license was revoked under any provision cited in this subsection within the past 10 years. The minimum revocation period for a person required to participate in the program under this subsection is one year and the minimum period for the use of the ignition interlock device is two years, except that the minimum revocation period for a person required to participate because of a violation for

driving while under the age of 21 with a blood alcohol concentration of 0.02 percent, or more, by weight, but less than 0.08 percent, or more, by weight, is two months and the minimum period of participation is one year. The division shall add an additional two months to the minimum period for the use of the ignition interlock device if the offense was committed while a minor was in the vehicle. The division shall add an additional six months to the minimum period for the use of the ignition interlock device if a person other than the driver received injuries. The division shall add an additional two years to the minimum period for the use of the ignition interlock device if a person other than the driver is injured and the injuries result in that person's death. The division shall add one year to the minimum period for the use of the ignition interlock device for each additional previous conviction or revocation within the past 10 years. Any person required to participate under this subsection must have an ignition interlock device installed on every vehicle he or she owns or operates.

(e) (1) If a person applies for and is accepted into the Motor Vehicle Alcohol Test and Lock Program prior to the effective date of the revocation, the commissioner shall defer the revocation period of such person under the provisions of this section. Such deferral shall continue throughout the applicable minimum period for the use of the ignition interlock device plus an additional period equal to the applicable minimum revocation period. If a person successfully completes all terms of the Motor Vehicle Alcohol Test and Lock Program for a period equal to the minimum period for the use of the ignition interlock device pursuant to §17C-5A-3a(c), plus any applicable minimum revocation period, the commissioner shall waive the revocation period.

(2) The application and acceptance of a person into the Motor Vehicle Alcohol Test and Lock Program pursuant to this §17C-5A-3(e)(1) constitutes an automatic waiver of their right to an administrative hearing. The Office of Administrative Hearings may not conduct a hearing on a matter which is the basis for a person actively participating in the Motor Vehicle Alcohol Test and Lock Program.

(f) Notwithstanding any other provision in this code, a person whose license is revoked for driving under the influence of drugs is not eligible to participate in the Motor Vehicle Alcohol Test and Lock Program. Provided that, the Division of Motor Vehicles may reduce any revocation period required of a person with a second or subsequent offense for driving under the influence of drugs to a minimum of one year and thereafter issue a restricted license on the conditions that the person is in the treatment and job program prescribed in §61-11-26a, has satisfactorily performed in the treatment component of the program and that the person submits to two years of monthly drug testing. If the person is otherwise required to participate in the Alcohol Test and Lock Program for another offense, he or she may do so while meeting the conditions described in this subsection. If the person fails to submit to a drug test or submits to a test that reveals the presence of controlled substances or drugs, then the full revocation period is reinstated, and the person is only credited with revocation time actually served prior to receiving restricted privileges. The Commissioner of the Division of Motor Vehicles is hereby authorized to promulgate emergency rules to implement the provisions of this subsection article.

(g) An applicant for the test and lock program may not have been convicted of any violation of §17B-4-3 of this code for driving while the applicant's driver's license was suspended or revoked within the six-month period preceding the date of application for admission to the test and lock program unless such is necessary for employment purposes.

(h) Upon permitting an eligible person to participate in the program, the commissioner shall issue to the person, and the person is required to exhibit on demand, a driver's license which

shall reflect that the person is restricted to the operation of a motor vehicle which is equipped with an approved motor vehicle alcohol test and lock system.

(i) The commissioner may extend the minimum period of revocation and the minimum period of participation in the program for a person who violates the terms and conditions of participation in the program as found in this section, or legislative rule, or any agreement or contract between the participant and the division or program service provider. If the commissioner finds that any person participating in the program pursuant to §17C-5-2b of this code must be removed therefrom for violation(s) of the terms and conditions thereof, he or she shall notify the person, the court that imposed the term of participation in the program and the prosecuting attorney in the county wherein the order imposing participation in the program was entered.

(j) A person whose license has been suspended for a first offense of driving while under the age of 21 with a blood alcohol concentration of 0.02 percent, or more, by weight, but less than 0.08 percent, or more, by weight, who has completed the educational program and who has not violated the terms required by the commissioner of the person's participation in the program is entitled to the reinstatement of his or her driver's license six months from the date the person is permitted to operate a motor vehicle by the commissioner. When a license has been reinstated pursuant to this subsection, the records ordering the suspension, records of any administrative hearing, records of any blood alcohol test results and all other records pertaining to the suspension shall be expunged by operation of law: *Provided*, That a person is entitled to expungement under the provisions of this subsection only once. The expungement shall be accomplished by physically marking the records to show that the records have been expunged and by securely sealing and filing the records. Expungement has the legal effect as if the suspension never occurred. The records may not be disclosed or made available for inspection and in response to a request for record information, the commissioner shall reply that no information is available. Information from the file may be used by the commissioner for research and statistical purposes so long as the use of the information does not divulge the identity of the person.

(k) In addition to any other penalty imposed by this code, any person who operates a motor vehicle not equipped with an approved motor vehicle alcohol test and lock system during that person's participation in the Motor Vehicle Alcohol Test and Lock Program is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period not less than one month nor more than six months and fined not less than \$100 nor more than \$500. Any person who attempts to bypass the alcohol test and lock system is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than six months and fined not less than \$100 nor more than \$1,000: *Provided*, That notwithstanding any provision of this code to the contrary, a person enrolled and participating in the test and lock program may operate a motor vehicle solely at his or her job site if the operation is a condition of his or her employment. For the purpose of this section, "job site" does not include any street or highway open to the use of the public for purposes of vehicular traffic.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 90—A Bill to amend and reenact §17C-3-3c, §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, relating to transferring the Safety and Treatment Program, which treats and educates people whose licenses were revoked due to concerns of alcohol and/or drug use while operating a motor vehicle, from

the Department of Health and Human Resources to the Division of Motor Vehicles; requiring the Division of Motor Vehicles to stay or supersede imposition of suspension of under §17C-3-3a of this code if a person successfully participates in an approved treatment and job program as prescribed in §61-11-26a of this code; requiring the Division of Motor Vehicles to waive reinstatement fees established by §17B-3-9 of this code when provided proof of successful completion of an approved treatment and job program prescribed in §61-11-26a of this code, and proof of compliance from judicial authorities; providing that any stay or supersedeas shall be removed by the Division of Motor Vehicles if the participant fails to complete or comply with the approved treatment and job program established under §61-11-26a of this code; providing that successful compliance with the substance abuse and counselling program prescribed in §61-11-26a of this code is sufficient to meet the requirements of the safety and treatment program administered under §17C-5A-3 of this code; creating a special revenue account known as the Division of Motor Vehicles Safety and Treatment Fund to be administered by the Commissioner of the Division of Motor Vehicles; providing that as of July 1, 2019, all moneys held in the Department of Health and Human Resources Safety and Treatment Fund shall be transferred to the Division of Motor Vehicles Safety and Treatment Fund; establishing that program providers shall remit a portion of the collected fee to be deposited by the Commissioner of the Division of Motor Vehicles into the Division of Motor Vehicles Safety and Treatment Fund; requiring the Division of Motor Vehicles to reimburse enrollment fees for each eligible indigent offender; requiring the Commissioner of the Division of Motor Vehicles to report to the legislature on specific matters on or before January 15 of each year; providing the Division of Motor Vehicles shall provide an educational program for each person whose license has been suspended pursuant to §17C-5A-2(n) of this code; providing under certain circumstances that the Division of Motor Vehicles shall propose and implement a plan for victim impact panels; requiring the Division of Motor Vehicles to ensure meetings between victims and offenders is nonconfrontational and safe; requiring the Commissioner of the Division of Motor Vehicles to promulgate a legislative rule for approval to establish a fee for enrollment in the safety and treatment program, a reimbursement program, and program standards; establishing that the Legislature finds an emergency exists requiring the Commissioner to file an emergency rule to implement §17C-5A-3 of this code by July 1, 2019; requiring that the fees related to ignition interlock devices shall be waived for the indigent as determined by the Division of Motor Vehicles; providing that the Department of Motor Vehicles may reduce a license revocation period for second or subsequent offense for driving under the influence of drugs to a one year minimum; providing the Department of Motor Vehicles may issue a restricted license on conditions an individual participates in the treatment and job program as prescribed in §61-11-26a of this code, satisfactorily performs in the treatment program, and submits to two years of monthly drug testing; providing that if a person is required to participate in an alcohol test and lock program for another offense, they may do so while meeting certain described conditions; establishing that if a person fails to submit to drug tests or fails to pass the drug test the full period of revocation is reinstated; establishes that a person whose revocation period is reinstated is only credited for revocation time served prior to receipt of restricted privileges; and authorizing the Commissioner of the Department of Motor Vehicles to promulgate emergency rules.

On motion of Senator Boso, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 90) was reported by the Clerk and adopted:

Eng. Com. Sub. for Com. Sub. for Senate Bill 90—A Bill to amend and reenact §17B-3-3c of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-5A-3 and §17C-5A-3a of said code, all relating to the Safety and Treatment Program; transferring the program from the Department of Health and Human Resources to the Division of Motor Vehicles; waiving

license reinstatement fees in some circumstances; and providing for a method to reduce the license revocation period.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 90, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Ihlenfeld and Plymale—2.

Absent: Boley, Mann, and Smith—3.

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. 90) 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 to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

On motion of Senator Takubo, 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 613—A Bill to amend and reenact §16-19-3, §16-19-5, and §16-19-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-31 of said code, all relating to permitting individuals to make an anatomical gift by authorizing a statement or symbol to be imprinted on his or her hunting or fishing license; amending definition of document of gift to include a statement or symbol on a hunting or fishing license; adding definition; requiring the Division of Natural Resources to provide information regarding a donor's making, amendment to, or revocation of an anatomical gift to a donor registry; requiring the Director of the Division of Natural Resources to provide information regarding the anatomical organ donation program; providing for the reimbursement of costs to the Division of Natural Resources for costs relating to the creation and administration of an anatomical gift record by the Center for Organ Recovery and Education; and absolving the Division of Natural Resources of responsibility to collect and provide records if it is not reimbursed for costs.

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

Engrossed Committee Substitute for Senate Bill 613, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

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. 613) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

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. 613) 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, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 656, Relating to electronic filing of tax returns.

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

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

On pages three through six, by striking out all of section seven;

And,

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

Eng. Senate Bill 656—A Bill to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as amended, all relating to electronic filing of tax returns and electronic funds transfers in payment of taxes; and raising to \$50,000 the tax liability threshold amount at which taxpayers must file returns electronically or pay by electronic funds transfers.

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

Engrossed Senate Bill 656, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 656) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 656) takes effect July 1, 2019.

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. Senate Bill 669, Allowing appointment of commissioners to acknowledge signatures.

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

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

On page four, section three, after line six, by adding a new subdivision, designated subdivision (4), to read as follows:

(4) No provision of this section shall be construed to prohibit the practice of law by a duly licensed attorney.;

On page five, section five, line six, by striking out the words “notary publics” and inserting in lieu thereof the words “notaries public”;

And,

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

Eng. Senate Bill 669—A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §39-4A-1, §39-4A-2, §39-4A-3, §39-4A-4, and §39-4A-5, all relating to the appointment of commissioners to acknowledge signatures by persons residing in or out of the State of West Virginia covering deeds, leases, and other writings pertaining to West Virginia property for recordation in the State of West Virginia; authorizing the Secretary of State to appoint a qualified person as a commissioner; setting forth qualifications for appointment; establishing application requirements and procedures; authorizing the Secretary of State to deny, refuse to renew, revoke, suspend, or impose a condition on a commission; establishing application fee; establishing term of office; establishing powers and duties of commissioners; setting forth prohibited acts; authorizing rulemaking by the Secretary of State; incorporating requirements, duties, prohibitions, penalties, and procedures set forth in the Revised Uniform Law on Notarial Acts; and requiring inclusion of active commissioners in online database of notaries public.

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

Engrossed Senate Bill 669, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 669) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 677, Supplemental appropriation to Division of Health and Division of Human Services.

On motion of Senator Takubo, 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, after the first Whereas clause, by the inserting the following;

“WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and”.

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

Engrossed Senate Bill 677, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 677) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 677) 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 679, Supplemental appropriation to Division of Finance.

On motion of Senator Takubo, 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, after the first Whereas clause, by the inserting the following;

“WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and”.

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

Engrossed Senate Bill 679, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 679) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 679) 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 680, Supplemental appropriations to various divisions in DMAPS.

On motion of Senator Takubo, 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, after the first Whereas clause, by the inserting the following;

“WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and”;

And,

On page two, line twenty-one, by striking out “0570” and inserting in lieu thereof “0446”.

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

Engrossed Senate Bill 680, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 680) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 680) 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 concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

Eng. Com. Sub. for House Bill 2486, Using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation.

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

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

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

Eng. Com. Sub. for House Bill 2486—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22; and to amend and reenact §30-5-11, §30-5-11a, §30-10-8, §30-10-10, §30-13A-9, §30-13A-12, §30-20-8, §30-20-10, §30-21-7, §30-22-10, §30-23-9, §30-23-15, §30-23-17, §30-23-20, §30-25-8, §30-26-5, §30-26-13, §30-30-8, §30-30-10, §30-30-12, §30-30-14, §30-30-26, §30-31-8, §30-31-9, §30-38-12 and §30-39-6 of said code, all relating to the use of post-criminal conduct in professional and occupational initial licensure decision making; creating a rational nexus requirement between prior criminal conduct and initial licensure decision making; removing offenses described as one of moral turpitude as a basis for license denial unless the underlying crime bears a rational nexus to the occupation requiring licensure, certification or registration; limiting licensure disqualification; authorizing persons to petition licensure boards for a determination as to whether a person's criminal record precludes licensure; and providing for rulemaking.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 2486, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2486) passed with its House of Delegates amended title.

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

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

Eng. House Bill 3141, Requiring capitol building commission authorization for certain renovations.

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

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

On page one, section four, after the words “under a contract” by inserting the words “or before work on a change order in excess of \$40,000 is begun”.

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

Engrossed House Bill 3141, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3141) 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 amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for House Bill 2010, Relating to foster care.

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

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

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Lindsay—1.

Absent: Boley—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. 2010) takes effect from passage.

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

The Senate again proceeded to the fourth order of business.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 41, Requesting study creating paid family and medical leave insurance program.

Senate Concurrent Resolution 50, Requesting study requiring purchasers of roundwood collect information from sellers of roundwood.

Senate Concurrent Resolution 60, Requesting study of new model providing a thorough and efficient system of free schools.

And,

Senate Concurrent Resolution 61, Requesting study requiring county boards of education provide adequate mental health evaluations and services to students.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 41, 50, 60, and 61) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

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

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

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 51, Requesting study relating to creation of long-term care medical review panels.

Senate Concurrent Resolution 52, Requesting study the settlements and verdicts under WV Board of Risk and Insurance Management.

Senate Concurrent Resolution 53, Requesting study state's appraisal laws.

Senate Concurrent Resolution 54, Requesting study granting access to adoption records to adult adoptees.

Senate Concurrent Resolution 55, Requesting study on price gouging during and after declaration of state of emergency in West Virginia.

Senate Concurrent Resolution 56, Requesting study of enacting laws clarifying definition of employee and independent contractor for unemployment compensation and workers' compensation.

Senate Concurrent Resolution 57, Requesting study state measures to strengthen and modernize protections for trade secrets and intellectual property.

Senate Concurrent Resolution 58, Requesting study cost and benefits of placing AEDs in WV schools.

And,

Senate Concurrent Resolution 59, Requesting study of causes of increased incidents of black lung.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 51, 52, 53, 54, 55, 56, 57, 58, and 59) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

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

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

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

Your Committee on Transportation and Infrastructure has had under consideration

House Concurrent Resolution 74, U. S. Army PFC James Leslie Pridemore Memorial Road.

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

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Clements, unanimous consent being granted, the resolution (H. C. R. 74) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

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

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

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

Your Committee on Finance has had under consideration

Senate Concurrent Resolution 66 (originating in the Committee on Finance)—Requesting the Joint Committee on Government and Finance study amending the Joint Rules of the House of Delegates and the Senate to make the operation of the two houses more efficient.

Whereas, Every year of the Legislature, some important and critical pieces of legislation are lost due to the constraints of time placed upon the Legislature in the Joint Rules; and

Whereas, Creating a more efficient, automated, and effective process of bill introduction, bill processing, committee referral, and bill carryover from session to session would serve not only to make the full Legislature more equipped to process legislation, but would also benefit the public through transparency and inclusion; and

Whereas, It might be of benefit for the Joint Rules to enable a procedure for bills that are not rejected, tabled, or postponed indefinitely to not have to go through the process of complete reintroduction; and

Whereas, In addition to carrying legislation over during any session of the Legislature, there may also be some benefit to allowing legislators to introduce legislation prior to the beginning of the session to gain input from state agencies, external stakeholders, and the public; and

Whereas, Any changes to rules should take into account the powers and duties of the presiding officer, the committee chairman, the lead sponsors or sponsors, and should be couched in terms of proper parliamentary procedure; and

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study amending the Joint Rules of the House of Delegates and the Senate to make the operation of the two houses more efficient; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the modernization of the Joint Rules of the House of Delegates and the Senate to account for carrying over bills, adjusting “crossover” day, and allowing for introduction of bills prior to the commencement of the session, and, be it

Further Resolved, That the study include consideration of the manner in which other states manage their legislative calendar; and, be it

Further Resolved, That in completing the study the Legislature should consult with other states, various legislative groups, and specialist in parliamentary procedure; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 to the Joint Committee on Government and Finance.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 66) contained in the preceding report from the Committee on Finance was taken up for immediate consideration.

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

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

On motion of Senator Takubo, at 9:27 p.m., the Senate recessed for 15 minutes.

The Senate reconvened at 9:46 p.m. and, at the request of Senator Weld, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

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

Eng. Senate Bill 635, Relating generally to coal mining activities.

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

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

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

Eng. Senate Bill 635—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, and §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto three new sections, designated §11-28-1, §11-28-2, and §11-28-3; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend said code by adding thereto a new sections, designated §22A-1-43; to amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated, §22A-2-80;

to amend and reenact §22A-8-5 of said code; to amend said code by adding thereto a new section, designated §22A-8-10; to amend and reenact §61-3-12 of said code; and to amend said code by adding thereto a new section, designated §61-3B-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; creating a tax credit for post coal mine site development; adding definitions; delineating eligibility for tax credit for post coal mine site development; specifying application of the tax credit for post coal mine site development; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work at least 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; holding mine owners, the state, and person or entities engaged in rescue operations harmless for injury or death resulting from mine trespass; authorizing a temporary exemption from environmental regulations during rescue operations; revoking certifications of persons convicted of mine trespass; removing underground coal mines from those places subject to the crime of unlawful entry of building other than a dwelling; creating the new criminal misdemeanor and felony offenses of mine trespass; establishing penalties for mine trespass including enhanced penalties for bodily injury or death during rescue operations; authorizing increased liability for damages caused during a mine trespass; and exempting lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute.

On motion of Senator Takubo, the Senate concurred in the foregoing further House of Delegates amendment to the amendments to the bill.

Engrossed Senate Bill 635, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 635) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 635) 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, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Com. Sub. for Senate Concurrent Resolution 4, US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road.

On motion of Senator Takubo, the resolution was taken up for immediate consideration.

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

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

Whereas, Dennis Ray Blankenship was born January 8, 1938, in Bartley, McDowell County, West Virginia; and

Whereas, Dennis Ray Blankenship served in the United States Marine Corps during the Vietnam War and reached the rank of Lieutenant Colonel; and

Whereas, Lt. Col. Dennis Ray Blankenship was highly decorated for his conspicuous gallantry and intrepidity in action, and was awarded the Silver Star; and

Whereas, Naming a portion of road in McDowell County is an appropriate recognition of his service and sacrifice for his country, his state, his community, and McDowell County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the "U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.;

And,

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

Senate Concurrent Resolution 4—Requesting the Division of Highways name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the resolution.

The question being on the adoption of the resolution (Com. Sub. for S. C. R. 4), as amended, the same was put and prevailed.

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, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Com. Sub. for Senate Resolution 40, Stating WV Senate affirms support of protections for consumers in Affordable Care Act.

On motion of Senator Takubo, the resolution was taken up for immediate consideration.

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

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

Whereas, Roy Edward Clark was born March 22, 1946, in Culloden, West Virginia, the son of Lawrence Willard Clark and Mazy Ann Woodard; and

Whereas, Roy E. Clark graduated from Hurricane High School in 1966, where he was known by his friends as a kind, humble, honest, and caring young man; Roy loved athletics and was a member of both the basketball and track teams; and

Whereas, After graduating high school, Roy E. Clark served with the U.S. Army in Vietnam, Company C, 5th Battalion, 46th Infantry, 198th Infantry Brigade; and

Whereas, On May 24, 1969, CPL Roy E. Clark was mortally wounded when his company came under heavy enemy fire near the village of Trà Vinh, Vietnam; with complete disregard for his own safety, CPL Roy E. Clark continued to expose himself to intense enemy fire, laying down a suppressive fire that provided cover to his comrades, enabling them to reach a safe position; and

Whereas, CPL Roy E. Clark was posthumously awarded the Bronze star with "V" for valor for saving the lives of many of his fellow soldiers through his timely and courageous actions; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roy E. Clark and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 2657, S-242(17), (40A030), located on West Virginia Route 34 within the city limits of Hurricane, in Putnam County, the "U.S. Army CPL Roy E. Clark Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army CPL Roy E. Clark Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.;

And,

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

Com. Sub. for Senate Concurrent Resolution 40—Requesting the Division of Highways name bridge number 2657, S-242(17), (40A030), located on West Virginia Route 34 within the city limits of Hurricane, in Putnam County, the "U.S. Army CPL Roy E. Clark Memorial Bridge".

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the resolution.

The question being on the adoption of the resolution (Com. Sub. for S. C. R. 40), as amended, the same was put and prevailed.

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

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

Eng. Com. Sub. for House Bill 2540, Prohibiting the waste of game animals, game birds or game fish.

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

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

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

Eng. Com. Sub. for House Bill 2540—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the waste

of any edible portion of big game animals or game fish; defining the term edible portion; setting forth exceptions to the term edible portion; making it unlawful to take any big game and detach or remove the head, hide, antlers, tusks, paws, claws, gallbladder, teeth, beards, or spurs only and leave the carcass to waste; setting forth exceptions if the person is unable to locate the carcass of any lawfully taken big game prior to the spoilage or decay of any or all edible portions; and establishing criminal penalties for violations.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 2540, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Ihlenfeld, Palumbo, Stollings, and Sypolt—4.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2540) passed with its House of Delegates amended title.

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

The Senate proceeded to the fifth order of business.

Senator Sypolt, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 241, Permitting county court clerks scan certain documents in electronic form.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 241 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate agree to the amendments of the House of Delegates to the bill and that both houses agree to a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 241—A Bill to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating to writings to be recorded under the direction of the county clerk; permitting the clerk, with authorization from the county commission, to scan and make available online when financially feasible certain documents in electronic form rather than in well-bound books, not prepare indices in separate books, and replace existing books by

scanning them in approved electronic format; requiring that existing books be retained; providing exception to retention of books; requiring that copies of documents in electronic format are stored on an off-site server; and updating terms.

Respectfully submitted,

Dave Sypolt, *Chair*, Chandler Swope, Douglas E. Facemire, *Conferees on the part of the Senate*.

Carl Martin, *Chair*, Kenneth Paul Hicks, Evan Worrell, *Conferees on the part of the House of Delegates*.

On motions of Senator Sypolt, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 241, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 241) passed with its conference amended title.

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

Senator Maynard, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 317, Authorizing three or more adjacent counties form multicounty trail network authority.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Committee Substitute for Senate Bill 317 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

ARTICLE 17. MULTICOUNTY TRAIL NETWORK AUTHORITIES.**§20-17-1. Legislative findings.**

The West Virginia Legislature finds that outdoor recreation is an increasingly vital part of the state's economy and that outdoor recreation participants spend billions of dollars annually in the state and support a significant number of local jobs.

The Legislature further finds that well-managed areas for trail-oriented recreation in the state will increase outdoor recreational tourism, increasing revenue to the state and creating more jobs for West Virginia citizens.

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide citizens and recreational tourists with greater access to trail-oriented recreation by incorporating private property into recreational trail systems and areas throughout West Virginia to provide significant economic and recreational benefits to communities in the state.

The Legislature further finds that, under an appropriate contractual and management scheme, well-managed trail systems may exist on private property without diminishing the landowner's interest, control, or profitability in the land and without increasing the landowner's exposure to liability.

The Legislature further finds that creating and empowering multicounty trail network authorities, that can work with the landowners, county officials, community leaders, state and federal government agencies, recreational user groups, and other interested parties to expand trail systems will greatly assist in improving and linking recreational trail systems.

The Legislature further finds that it is in the best interests of the state to encourage private landowners to make land available for public use, through multicounty trail network authorities, for recreational purposes by limiting landowner liability for injury to persons entering thereon, by limiting landowner liability for injury to the property of persons entering thereon, and by limiting landowner liability to persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§20-17-2. Definitions.

Unless the context clearly requires a different meaning, the terms used in this article have the following meanings:

(1) "Adjacent county" means a nonparticipating county that directly borders any participating county in a multicounty trail network authority;

(2) "Authority" means a multicounty trail network authority created pursuant to this article;

(3) "Board" means the board of a multicounty trail network authority;

(4) "Contiguous counties" means a group of counties in which each county shares the border of at least one other county in the group;

(5) "Fee" means the amount of money asked in return for an invitation to enter or go upon a recreational area of a trail network, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion as set by an authority, which may differ in amount for different categories of participants;

(6) "Land" or "property" includes, but is not limited to, roads, water, watercourses, private ways, buildings, premises, structures, and machinery or equipment, when attached to the realty;

(7) "Owner" or "owner of land" means a person vested with title to real estate and those with the ability to exercise control over real estate and includes, but is not limited to, a tenant, lessee, licensee, holder of a dominant estate, or other lawful occupant;

(8) "Participant" means any person using a recreational area of a trail network for recreational purposes;

(9) "Person" means any public or private corporation, institution, association, society, firm, organization, or company organized or existing under the laws of this or any other state or country; the State of West Virginia; any state governmental agency; any political subdivision of the state or of its counties or municipalities; a sanitary district; a public service district; a drainage district; a conservation district; a watershed improvement district; a partnership, trust, or estate; a person or individual; a group of persons or individuals acting individually or as a group; any other legal entity; or any authorized agent, lessee, receiver, or trustee of any of the foregoing;

(10) "Participating county" means one of the three or more counties forming a multicounty trail network authority;

(11) "Recreational area" means the recreational trails and appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities or attractions that are a part of a multicounty trail network authority system; and

(12) "Recreational purposes" means:

(A) Any outdoor activity undertaken, or practice or instruction in any such activity, for the purpose of exercise, relaxation, or pleasure, including, but not limited to any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, kayaking, camping, picnicking, hiking, rock climbing, bouldering, bicycling, horseback riding, spelunking, nature study, water skiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, aircraft, or ultralight operations on private airstrips or farms, or otherwise using land for purposes of the user;

(B) Parking on or traversing land, outside of the state road system, for the purpose of engaging in a recreational activity described in paragraph (A) of this subdivision; or

(C) Maintaining or making improvements on land, including, but not limited to, artificial improvements for the purpose of making the land accessible or usable for a recreational activity described in paragraph (A) of this subdivision.

§20-17-3. Multicounty trail network authorities authorized; addition of counties; merger of existing authorities.

(a) For the purposes of this article, three or more contiguous counties may, upon approval of the county commission of each county desiring to participate, form a multicounty trail network authority. An authority established pursuant to this section is a public corporation and a joint development entity existing for the purpose of facilitating the development and operation of a system of recreational trails and areas throughout the participating counties. Such trails will be designated and made available for recreational purposes with significant portions of the trails system being located on private property throughout West Virginia, made available for use through lease, license, easement, or other appropriate legal form by a willing landowner.

(b) An adjacent county may join a multicounty trail network authority as a participating county upon approval of both the board of the authority and the county commission of the adjacent county wishing to become a participating county.

(c) Two or more existing authorities may merge and become a single authority encompassing the participating counties in each merging authority upon approval of the board of each authority. Upon merger of two or more authorities, the board of the newly created authority will be composed of all board members serving on the board of each merging authority at the time the merger takes place. Thereafter, the authority will fill any vacancies and appoint board members as required by §20-17-4 of this code. The board of the newly created authority shall adopt appropriate procedures and bylaws to ensure that the newly created authority complies with all requirements of this article.

§20-17-4. Board; quorum; executive director; expenses; application of state Freedom of Information Act.

(a) The board is the governing body of an authority and the board shall exercise all the powers given the authority in this article. The county commission of each participating county shall appoint two members to the board, as follows:

(1) Each participating county shall appoint one member who represents and is associated with a corporation or individual landowner whose land is being used or is expected to be used in the future as part of the authority's recreational area. This member shall be appointed to a four-year term.

(2) Each participating county shall appoint one member who is an experienced instructor, guide, or participant in recreational activities in the county or an individual who represents and is associated with travel, tourism, economic development, land surveying, or relevant engineering efforts within the county. The initial appointment for this member shall be for a two-year term, but all subsequent appointments shall be for a four-year term.

(3) Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(b) Upon joining an existing authority as a participating county pursuant to §20-17-3 of this code, the newly participating county shall appoint board members only for the length of the unexpired terms of the authority's board members serving at the time the county joins the

authority. Thereafter, the county shall appoint board members according to the regular appointment procedure provided in subsection (a) of this section.

(c) The board shall meet quarterly, unless a special meeting is called by its chairman. During the first meeting of each fiscal year beginning in an odd-numbered year, or as soon as feasible thereafter, the board shall elect a chairman, secretary, and treasurer from among its own members to serve for two-year terms.

(d) A majority of the members of the board constitutes a quorum and a quorum shall be present for the board to conduct business.

(e) The board may prescribe, amend, and repeal bylaws and rules governing the use of the trail system, safety standards for participants, and the manner in which the business of the authority is conducted.

(f) The board shall review and approve an annual budget. The fiscal year for an authority begins on July 1 and ends on the 30th day of the following June.

(g) The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and retain such temporary legal, engineering, financial, and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director shall carry out plans to implement the provisions of this article and to exercise those powers enumerated in the bylaws. The executive director shall prepare an annual budget to be submitted to the board for its review and approval prior to the commencement of each fiscal year. The budget shall contain a detailed account of all planned and proposed revenue and expenditures for the authority for the upcoming fiscal year, including a detailed list of employees by title, salary, cost of projected benefits, and total compensation. Before August 15 of each year, the executive director shall provide to the board and the county commission for each participating county a detailed list of actual expenditures and revenue, by account and recipient name, for the previous fiscal year and a copy of the approved budget for the current fiscal year.

(h) All costs incidental to the administration of the authority, including office expenses, personal services expenses, and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(i) All expenses incurred by an authority in carrying out the provisions of this article shall be payable solely from funds that have accrued to the authority pursuant to this article. An authority may not incur liability or an obligation above the amount of funds that have accrued to the authority pursuant to this article.

(j) A multicounty trail network authority and the board is a "public body" for purposes of the West Virginia Freedom of Information Act, as provided in §29B-1-1 *et seq.* of this code.

§20-17-5. Financial review and oversight.

(a) An authority shall contract for and obtain an annual financial audit to be conducted by a private accounting firm in compliance with generally accepted government auditing standards. When complete, the audit shall be transmitted to the board, the president of the county

commission of each participating county, and the Legislative Auditor. The cost of the audit shall be paid by the authority.

(b) If an authority receives any funds from the Legislature by appropriation or grant, the Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the authority, and, for these purposes, shall have the power to inspect the properties, equipment, and facilities of the authority and to request, inspect, and obtain copies of any records of the authority. For each fiscal year in which the authority receives any funds from the Legislature by appropriation or grant, the executive director shall provide to the Legislative Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by account and recipient name for the previous fiscal year within 45 days of the close of that fiscal year.

§20-17-6. Powers of an authority.

An authority, as a public corporation and joint development entity, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

(1) To acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(2) To lease property, whether as lessee or lessor, and to acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the public;

(3) To mortgage or otherwise grant security interests in its property;

(4) To procure insurance against any losses in connection with its property, licenses, easements, operations, assets, or contracts, including hold-harmless agreements, in such amounts and from such insurers as the authority considers desirable;

(5) To maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;

(6) To sue and be sued, implead and be impleaded, and complain and defend in any court;

(7) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 *et seq.* of this code, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;

(8) To adopt, use, and alter at will a corporate seal;

(9) To make, amend, repeal, and adopt bylaws for the management and regulation of the authority's affairs;

(10) To appoint officers, agents, and employees and to contract for and engage the services of consultants;

(11) To make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying out the purposes of this article, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation;

(12) Without in any way limiting any other subdivision of this section, to accept grants and loans from, and enter into contracts and other transactions with, any federal agency;

(13) To maintain an office at such place or places within the state as it may designate;

(14) To borrow money, to issue notes, to provide for the payment of notes, to provide for the rights of the holders of notes, and to purchase, hold, and dispose of any of its notes;

(15) To issue notes payable solely from the revenue or other funds available to the authority, which may be issued in such principal amounts as necessary to provide funds for any purpose under this article, including:

(A) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on notes issued by it, whether the notes or interest to be funded or refunded have or have not become due; and

(B) The establishment or increase of reserves to secure or to pay notes, or the interest on the notes, and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source;

(16) To issue renewal notes, except that no renewal notes may be issued to mature more than 10 years from the date of issuance of the notes renewed;

(17) To apply the proceeds from the sale of renewal notes to the purchase, redemption, or payment of the notes to be refunded;

(18) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the federal government or from any governmental unit or any person, firm, or corporation, and to take appropriate measures in procuring, accepting, or disposing of gifts or grants;

(19) To the extent permitted under its contracts with the holders of notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any note, contract or agreement of any kind to which the authority is a party;

(20) To construct, reconstruct, improve, maintain, repair, operate, and manage the recreational areas at the locations within the participating counties as may be determined by the authority;

(21) To enter into an agreement with the West Virginia Division of Natural Resources for natural resources police officers to provide law-enforcement services within the authority's recreational area and to reimburse the Division of Natural Resources for its costs therefor;

(22) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain, and operate or oversee the operation of the authority at such locations within the participating counties as may be determined by the authority;

(23) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state;

(24) To develop, maintain, and operate or contract for the development, maintenance, and operation of the authority;

(25) To enter into contracts with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for recreational purposes or growing out of the recreational activities operated or managed by the authority from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;

(26) To assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers, or other facilities which are part of the recreational area and to retain and utilize that revenue for any purposes consistent with this article: *Provided*, That such fee does not constitute a "charge" or a "fee" within the meaning and for the purposes of §19-25-5 of this code: *Provided, however*, That the authority may not charge a fee for any user to enter or go upon any trail that is already open for use by the public without fee as of January 1, 2019;

(27) To enter into contracts or other appropriate legal arrangements with landowners under which land is made available for use as part of the recreational area;

(28) To directly operate and manage recreation activities and facilities within the recreational area;

(29) To promulgate and publish rules governing the use of the recreational area and the safety of participants, including rules designating particular trails or segments of trails within the recreational area for certain activities and limiting use of designated trails to such activities;

(30) To coordinate and conduct athletic races, competitions, or events within the recreational area, in cooperation with the county commissions of participating counties in which such events will take place; and

(31) To exercise such other and additional powers as may be necessary or appropriate to carry out the purposes of this article.

§20-17-7. Requirements for trail users and prohibited acts; criminal penalties.

(a) A person may not enter or remain upon a recreational area without a valid, nontransferable user permit issued by the appropriate authority and properly displayed, except properly identified landowners or leaseholders or their officers, employees, or agents while on the land that the person owns or leases for purposes related to the ownership or lease of the land.

(b) An authority may require recreational users to wear protective helmets or use safety equipment that the authority determines to be appropriate for the recreational activity in which the user is engaged.

(c) Each trail user operating a bicycle or mountain bicycle shall obey all traffic laws, traffic-control devices, and signs within the recreational area, including those which restrict trails to certain types of bicycles or mountain bicycles.

(d) Each trail user shall at all times remain within and on a designated and marked trail while within the recreational area.

(e) A person may not ignite or maintain any fire within the recreational area except in a designated camp site.

(f) A person may not operate a motor vehicle within the recreational area unless the person is authorized to operate a motor vehicle in the area to perform maintenance services or emergency response.

(g) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100. Prosecution or conviction for the misdemeanor described in this subsection shall not prevent or disqualify any other civil or criminal remedies for the conduct prohibited by this section.

§20-17-8. Limiting liability.

(a) An owner of land used by an authority owes no duty of care to keep his or her land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, activity, or wild animal on such land to persons entering or going upon the land for such purposes. The provisions of this section apply regardless of whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(b) Unless otherwise agreed in writing, an owner of land who grants a lease, easement, or license of land to an authority for recreational purposes does not, by giving a lease, easement or license: (1) Extend any assurance to any person using the land that the land is safe for any purpose; (2) confer upon those persons the legal status of a party to whom a duty of care is owed; or (3) assume responsibility for or incur liability for any injury to person or property or death caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(c) Nothing in this section limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or the commission of waste by himself or herself.

§20-17-9. Purchasing and bidding procedures; criminal penalties.

(a) *Purchasing and bidding procedures; criminal penalties.* —

(1) Whenever an authority proposes to purchase or contract for commodities or services reasonably anticipated to equal or exceed \$25,000 in cost, the purchase or contract shall be based on competitive bidding. Where the purchase of particular commodities or services is reasonably anticipated to be less than \$25,000, the executive director may, on behalf of the authority, solicit bids or price quotes in any manner that the executive director deems appropriate

and the authority shall obtain its commodities or services by the lowest bid. In lieu of seeking bids or quotes for commodities or services in this price range, the authority may purchase those commodities and services pursuant to state prequalification agreements as provided in §5A-3-10e of this code.

(2) Where the cost for the purchase of commodities or services is reasonably anticipated to exceed \$25,000, the executive director shall solicit sealed bids for such commodities or services: *Provided*, That the executive director may permit bids by electronic transmission to be accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be published as a Class II legal advertisement in all participating counties in compliance with the provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director deems appropriate. The notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place for receiving bids. After all bids are received, the authority shall enter into a written contract with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet the specifications required by the authority or that exceed the authority's budget estimation for those commodities or services. If the executive director determines in writing that there is only one responsive and responsible bidder and that there has been sufficient public notice to attract competitive bids, he or she may negotiate the price for a noncompetitive award or the specifications for a noncompetitive award based solely on the original purpose of the solicitation.

(3) For any contract that exceeds \$25,000 in total cost, the authority shall require the vendors to post a bond, with form and surety to be approved by the authority, in an amount equal to at least 50 percent of the contract price conditioned upon faithful performance and completion of the contract.

(4) The bidding requirements specified in this section do not apply to any leases for real property upon which the authority makes improvements for public access to the recreational area, information distribution, and welcome centers. This exemption does not apply to leases for offices, vehicle and heavy equipment storage, or administrative facilities.

(5) Any person who violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than 10 days nor more than one year, or fined not less than \$10 nor more than \$1,000, or both fined and confined.

(b) *Conflicts of interest in contracts prohibited.* —

An authority or any of its board members, officers, employees, or agents may not enter into any contracts, agreements, or arrangements for purchases of services or commodities violating the requirements of §6B-2-5 or §61-10-15 of this code.

(c) *Civil remedies.* —

The county commission of a participating county in an authority may challenge the validity of any contract or purchase entered, solicited, or proposed by the authority in violation of this section by seeking declaratory or injunctive relief in the circuit court of the county of the challenging party. If the court finds by a preponderance of evidence that the provisions of those sections have been violated, the court may declare the contract or purchase to be void and may grant any injunctive relief necessary to correct the violations and protect the funds of the authority as a joint development entity.

ARTICLE 17A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.**§20-17A-1. Legislative findings; purpose.**

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide trail-oriented recreation facilities primarily on private property in the mountainous terrain of the Potomac Highlands and north central West Virginia and that the facilities will provide significant economic and recreational benefits to the state and to the communities in the Potomac Highlands and north central West Virginia through increased tourism in the same manner as whitewater rafting, snow skiing, and utility terrain motor vehicle riding benefit the state and communities surrounding those activities.

The Legislature further finds that the creation and empowering of a joint development entity to work with the landowners, county officials and community leaders, state and federal government agencies, recreational user groups, and other interested parties to enable and facilitate the implementation of the facilities will greatly assist in the realization of these potential benefits.

The purpose of this article is to provide additional opportunities and regulatory authorization for recreational trail networks and to provide for increased access to recreational areas, including, but not limited to, creating a contiguous trail system that connects to the Chesapeake and Ohio Canal Tow Path.

§20-17A-2. Creation of Mountaineer Trail Network Recreation Authority and establishment of recreation area.

(a) There is hereby created the "Mountaineer Trail Network Recreation Authority" consisting of representatives from the counties of Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, and Tucker organized pursuant to the provisions of §20-17-1 *et seq.* of this code. This authority is authorized to establish a Mountaineer Trail Network Recreation Area within the jurisdictions of those counties and the authority shall be subject to the powers, duties, immunities, and restrictions provided in §20-17-1 *et seq.* of this code. Visitors and participants in recreational activities within the trail network shall, in similar respects, be subject to the user requirements and prohibitions of §20-17-7 of this code.

(b) Notwithstanding subsection (a) of this section, an adjacent county may join the Mountaineer Trail Network Recreation Authority pursuant to the procedures set forth in §20-17-3(b) of this code.

(c) Notwithstanding subsection (a) of this section, the Mountaineer Trail Network Recreation Authority may merge with another multicounty trail network authority, pursuant to the procedures set forth in §20-17-3(c) of this code.

§20-17A-3. Recreational purposes.

The permitted recreational purposes for the Mountaineer Trail Network Recreation Area include, but are not limited to, any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, mountain bicycling, running, cross-country running, nature study, winter sports and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites.

§20-17A-4. Governing body and expenses

(a) The governing body of the authority shall be a board constituted according to the provisions of §20-17-4 of this code.

(b) All costs incidental to the administration of the authority, including office expenses, personal services expenses and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(c) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and according to the requirements of §20-17-1 et seq. of this code. No liability or obligation may be incurred by the authority under this article beyond the extent to which moneys have been provided under the authority of this article.

§20-17A-5. Protection for private landowners.

Owners of land used by the authority shall have the full benefit of the limitations of liability provided in §20-17-8 of this code.

And,

That both houses agree to a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 317—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7, §20-17-8 and §20-17-9; and to amend said code by adding thereto a new article, designated §20-17A-1, §20-17A-2, §20-17A-3, §20-17A-4, and §20-17A-5, all relating generally to forming multicounty trail network authorities; creating a framework for establishment of multicounty trail network authorities and authorizing the formation of the Mountaineer Trail Network Recreation Authority; providing legislative findings; defining terms; providing that an authority is a public corporation and joint development entity; providing procedures for counties to join a trail network authority as a participating county and providing for the merger of two established authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; establishing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority and its board; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of authority staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; providing criminal penalties for violation of purchasing and bidding requirements; clarifying that certain provisions of the code prohibiting certain officers from having a pecuniary interest in contracts applies to board members, officers, personnel, and agents of an authority; providing civil remedies for participating counties challenging purchasing contracts violating certain requirements; establishing the Mountaineer Trail Network Recreation Authority and authorizing the creation of the Mountaineer Trail Network Recreation Area; identifying participating counties; authorizing counties to join the Mountaineer Trail Network Recreation Authority through certain procedures; authorizing the Mountaineer Trail

Network Recreation Authority to merge with other multicounty trail network authorities through certain procedures; providing legislative findings and purposes for this authority; listing the recreational purposes for the recreation area; specifying manner of governance and payment of expenses; and ensuring liability protections for cooperating land owners.

Respectfully submitted,

Mark R. Maynard, *Chair*, Randy E. Smith, Robert D. Beach, *Conferees on the part of the Senate*.

Gary G. Howell, *Chair*, John Paul Hott, Evan Hansen, *Conferees on the part of the House of Delegates*.

Senator Maynard, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, Senator Maynard moved that the report be taken up for immediate consideration and adopted.

Following discussion,

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 317, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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 Com. Sub. for S. B. 317) passed with its conference amended title.

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

Senator Weld, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 481, Relating to Judicial Vacancy Advisory Commission.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Senate Bill 481 having met,

after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House, and the Senate and House agree to an amendment as follows:

On page two, section three-a, lines thirty through thirty-seven, by striking out all of subdivisions (1) and (2) and inserting in lieu thereof the following:

(1) No more than two appointed members of the commission may be residents of the same state senatorial district, as provided in §1-2-1 of this code, at the time of appointment: *Provided*, That the members appointed to, and serving on, the commission prior to the enactment of this subdivision are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.

(2) No more than three appointed members of the commission may be residents of the same congressional district: *Provided*, That, if the number of congressional districts in the state is reduced to two, then no more than four appointed members of the commission may be residents of the same congressional district: *Provided, however*, That the members appointed to, and serving on, the commission prior to the date on which the number of congressional districts in the state is reduced to two are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for Senate Bill 481—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating to the Judicial Vacancy Advisory Commission; altering the residency requirements for members of the commission; providing that no more than two of the commission's appointed members may be residents of the same state senatorial district; providing that if the number of congressional districts in the state is reduced to two, no more than four of the commission's appointed members may be residents of the same congressional district; providing that members appointed to, and serving on, the commission prior to the effective date of the new residency requirements will not be disqualified from serving for the remainder of their terms; and deleting obsolete language.

Respectfully submitted,

Ryan W. Weld, *Chair*, Patricia Puertas Rucker, Michael J. Romano, *Conferees on the part of the Senate*.

Larry D. Kump, *Chair*, Brandon Steele, Nathan Brown, *Conferees on the part of the House of Delegates*.

Senator Weld, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Weld, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 481, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 481) passed with its conference amended title.

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

Senator Takubo, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Senate Bill 487 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-7a. Admissibility and use of certain information.

(a) In an action brought, there is a rebuttable presumption that the following information may not be introduced unless it applies specifically to the injured person or it involves substantially similar conduct that occurred within one year of the particular incident involved:

(1) A state or federal survey, audit, review, or other report of a health care provider or health care facility;

(2) Disciplinary actions against a health care provider's license, registration, or certification;

(3) An accreditation report of a health care provider or health care facility; and

(4) An assessment of a civil or criminal penalty.

(b) In any action brought alleging inappropriate staffing or inadequate supervision, if the health care facility or health care provider demonstrates compliance with the minimum staffing requirements under state law, the health care facility or health care provider is entitled to a rebuttable conclusive presumption that appropriate staffing was provided, and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided, and the jury shall be instructed accordingly.

(c) If staffing is less than the requirements dictated by the applicable regulations, then there is a rebuttable presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and injuries or death arising therefrom, and the jury shall be instructed accordingly.

(d) Information under this section may only be introduced in a proceeding if it is otherwise admissible under the West Virginia Rules of Evidence.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for Senate Bill 487—A Bill to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating to the admissibility of health care staffing requirements in medical professional liability litigation; providing that compliance with minimum staffing requirements under state law creates a conclusive presumption that appropriate staffing was provided and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided; requiring that if staffing is less than requirements dictated by state law then there is a rebuttable presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and resulting injuries or death; and requiring the jury be instructed accordingly.

Respectfully submitted,

Tom Takubo, *Chair*, Gregory L. Boso, Michael A. Woelfel, *Conferees on the part of the Senate.*

Moore Capito, *Chair*, Geoff Foster, Chad Lovejoy (*did not sign*), *Conferees on the part of the House of Delegates.*

On motions of Senator Takubo, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 487, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—27.

The nays were: Beach, Ihlenfeld, Jeffries, Lindsay, Romano, and Woelfel—6.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 487) passed with its conference amended title.

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

Senator Blair, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Committee Substitute for Senate Bill 522 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate agree to the House amendment on page one, after the enacting clause, by inserting a new section, designated section six-b;

That both houses recede from their respective positions as to the amendment of the House of Delegates on page one, section eleven, lines one through six, and agree to the same as follows:

By striking out all of subsections (a) and (b) and inserting in lieu thereof the following:

There is created a special sub-account in the State Road Fund, designated the Special Road Repair Fund, to be expended solely for the purposes specified in §17-30-1 *et seq.* of this code for the maintenance and repair of the state's roads and highways. The Commissioner is hereby authorized to transfer no more than \$80 million to this sub-account from the State Road Fund in any fiscal year for the sole purpose of repairs of non-federal aid eligible roads.;

And,

That both houses recede from their positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 522—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6b; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5, all relating to enhancing maintenance and repair of the state's roads and highways generally; establishing roads accountability and transparency; directing the State Auditor to develop and maintain a searchable website of funding actions and expenditures relating state and public roads; setting forth the minimum content to be contained in the website; directing the Commissioner of Highways to provide information and data to the State Auditor; requiring an annual update to the Joint Committee on Government and Finance; creating the Special Road Repair Fund as a sub-account of the State Road Fund; authorizing the Commissioner to transfer certain funds into the

sub-account for certain purposes; creating the Enhanced Road Repair and Maintenance Program; stating legislative finding and purpose of program; requiring Division of Highways county supervisors consult with county commissions and legislators to submit project requests to the Division of Highways; setting forth a funding formula; setting forth requirements concerning bidding, vendors, and contracts with private vendors; specifying uses of Special Road Repair Fund; defining terms; providing requirements for Commissioner of Highways and districts; requiring for rulemaking; and requiring reporting by Division of Highways and Legislative Auditor.

Respectfully submitted,

Craig Blair, *Chair*, Randy E. Smith, Robert H. Plymale, *Conferees on the part of the Senate*.

Vernon Criss, *Chair*, Daniel Linville, Jason Barrett, *Conferees on the part of the House of Delegates*.

On motions of Senator Smith, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 522, as amended by the conference report, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 522 pass?”

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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 Com. Sub. for S. B. 522) passed with its conference amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—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 Com. Sub. for S. B. 522) takes effect July 1, 2019.

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

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

Eng. House Bill 3044, Requiring the Commissioner of Highways to develop a formula for allocating road funds.

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

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

On page two, section three, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

§17-30-3. Formula for allocation of funds.

(a) Prior to the beginning of the regular legislative session in 2020, the commissioner shall develop and propose a formula for the effective and efficient allocation of state road funds among the districts and counties in this state, to be promulgated as a legislative rule.

(b) The commissioner shall include, but not be limited to, the following factors in the formula developed pursuant to this section:

(1) The population served in each county according to the most recent United States Census;

(2) The amount of population growth in each county according to the most recent United States Census projection;

(3) The number of total lane miles in a county and their condition;

(4) The approximate number of vehicle miles travelled within a county;

(5) The approximate number of heavy truck miles travelled within a county; and

(6) The number of bridges in a county and their condition.

(c) Before developing the formula required by this section, the commissioner shall review and consider all public comments submitted to the commissioner pursuant to §17-30-4 of this code.

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

Engrossed House Bill 3044, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3044) 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 that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 2709, Relating to hunting licenses.

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

Senator Trump moved that the Senate refuse to recede from its amendments to the bill and insist upon its position.

Following discussion,

The question being on the adoption of Senator Trump's aforesaid motion, the same was put and did not prevail.

Thereupon, Engrossed House Bill 2709, as amended by deletion, was then put upon its passage.

Following a point of inquiry to the President,

Senator Trump moved that the Senate reconsider its action by which immediately hereinbefore it rejected Senator Trump's motion that the Senate refuse to recede from its amendments to the bill and insist upon its position.

Following discussion,

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

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Mann, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—16.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—17.

Absent: Boley—1.

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

Thereupon, Engrossed House Bill 2709, as amended by deletion, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 2709 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

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

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

The Senate again proceeded to the fifth order of business.

Senator Boso, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 405, Increasing limit on additional expenses incurred in preparing notice list for redemption.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for Senate Bill 405 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE AND UNAPPROPRIATED LANDS

§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-5 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien on the real estate was purchased by an individual may redeem at any time before a tax deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest at the rate of one percent per month from the date of sale;

(2) All other taxes which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) Any additional expenses incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, with interest at the rate of one percent per month from the date of payment for reasonable legal expenses incurred for the services of an attorney who has performed an examination of the title to the real estate and rendered written documentation used for the preparation of the list: ~~Provided, That the~~ The maximum amount the owner or other authorized person shall pay, excluding the interest, for the expenses incurred for the preparation of the list of those to be served required by §11A-3-19 of this code is ~~\$300~~ \$500: ~~Provided however, That the~~ An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) Where the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any written documentation used for the preparation of the list of those to be served with notice to redeem, including the certification required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other evidence of legal expenses, incurred as provided in section nineteen of this article, the person redeeming shall pay the State Auditor the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant to the provisions of §11A-3-10, §11A-3-24, §11A-3-25, and §11A-3-32 of this code.

(c) The person redeeming shall be given a receipt for the payment and the written opinion or report used for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article.

(d) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of that other person for the amount paid to redeem the interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she files with the clerk of the county commission his or her claim in writing against the owner of the interest, together with the receipt provided in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the claim. The lien may be enforced as other judgment liens are enforced.

(e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor, the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt. The amount of the payment necessary to redeem any real estate encumbered with a tax lien shall be provided by the State Auditor and the State Auditor shall update the required payments plus interest at least monthly.

(f) On or before the tenth day of each month, the county clerk shall deliver to the State Auditor the redemption money paid and the name and address of the person who redeemed the property on a form prescribed by the State Auditor.

§11A-3-25. Distribution of surplus to purchaser.

(a) Where the land has been redeemed in the manner set forth in §11A-3-23 of this code, and the State Auditor has delivered the redemption money to the sheriff pursuant to §11A-3-24 of this code, the sheriff shall, upon receipt of the sum necessary to redeem, promptly notify the purchaser or his or her heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or assigns the following amounts:

(1) From the sale of tax lien surplus fund provided by §11A-3-10 of this code:

(A) The surplus of money paid in excess of the amount of the taxes, interest and charges paid by the purchaser to the sheriff at the sale; and

(B) The amount of taxes, interest and charges paid by the purchaser on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption;

(2) All other taxes on the land which have since been paid by the purchaser or his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment to the date of redemption;

(3) Any additional reasonable expenses that the purchaser may have incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, in accordance with §11A-3-19 of this code, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-19 of this code shall not exceed the amount actually incurred by the purchaser or ~~\$300~~ \$500, whichever is less: *Provided*, That the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the State Auditor;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list in accordance with §11A-3-19 of this code, the State Auditor shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list from January 1 of the year following the sheriff's sale to the date of the sale to the date of the redemption.

(c) Where, pursuant to §11A-3-23 of this code, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem, including written documentation used for preparation of the list, in the form of receipts or other evidence within thirty days from the date of notification by the State Auditor, the sheriff shall refund the amount to the person redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State Auditor has received from the person redeeming and therefore delivered to the sheriff the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification satisfactory proof of the expenses, and the amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

§11A-3-36. Operating fund for land department in Auditor's office.

(a) The Auditor shall establish a special operating fund for the land department in his or her office. He or she shall pay into such fund all redemption fees, all publication or other charges collected by him or her, if such charges were paid by or were payable to him or her, the unclaimed surplus proceeds received by him or her from the sale of delinquent and other lands pursuant to this article, and all payments made to him or her under the provisions of §11A-3-64 and §11A-3-65 of this code, except such part thereof as represents state taxes and interest. All payments so excepted shall be credited by the Auditor to the general school fund or other proper state fund.

(b) The operating fund shall be used by the Auditor in cases of deficits in land sales to pay any balances due to deputy commissioners for services rendered, and any unpaid costs including those for publication which have accrued or will accrue under the provisions of this article, to pay fees due surveyors under the provisions of §11A-3-43, and to pay for the operation and maintenance of the land department in his or her office. ~~The surplus over and above the amount of \$100,000, remaining in the fund at the end of any fiscal year, shall be paid by the Auditor into the general school fund. The surplus over and above the amount of 20 percent of gross revenue from operation of the fund from the prior year, remaining at the end of any fiscal year, shall be paid by the Auditor into the General School Fund.~~

§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to 11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the deputy commissioner the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) ~~all~~ All other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) ~~such~~ Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$200 \$500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) ~~all~~ All additional statutory costs paid by the purchaser; and

(5) ~~the~~ The deputy commissioner's fee and commission as provided by §11A-3-66 of this code. Where the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, ~~and any examination of title or of any licensed attorney's title examination~~ incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the deputy commissioner of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the Auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and five copies of the receipt for the payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The deputy commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, the Auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his or her heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to §11A-3-64 of this code an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

§11A-3-58. Distribution to purchaser.

(a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the following amounts:

(1) The amount paid to the deputy commissioner at the sale;

(2) all other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed ~~\$200~~ \$500; and

(4) all additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem ~~and any~~ or for any licensed attorney's title examination incident thereto, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and for any licensed attorney's title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant §11A-3-56 of this code, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, and any or for any licensed attorney's title examination and rendered written documentation used for the preparation of the list incident thereto, in the form of receipts or other evidence thereof, and therefore received from the purchaser as required by said section and delivered to the sheriff the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within thirty days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per

month from the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification such satisfactory proof of such expenses, and the amount of such expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

§11A-3-59. Deed to purchaser; record.

If the real estate described in the notice is not redeemed within the time specified therein, but in no event prior to 30 days after notices to redeem have been personally served, or an attempt of personal service has been made, or such notices have been mailed or, if necessary, published in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner's sale, the deputy commissioner shall, upon the request of the purchaser, make and deliver to the person entitled thereto a quitclaim deed for such real estate in form or effect as follows:

This deed, made this _____ day of _____, 20____, by and between _____, deputy commissioner of delinquent and nonentered lands of _____ County, West Virginia, grantor, and _____, purchaser (or _____ heir, devisee, assignee of _____, purchaser) grantee, witnesseth, that

Whereas, in pursuance of the statutes in such case made and provided, _____, deputy commissioner of delinquent and nonentered lands of _____ County, did, on the _____ day of _____, 20____, sell the real estate hereinafter mentioned and described for the taxes delinquent thereon for the year(s) 20____, (or as nonentered land for failure of the owner thereof to have the land entered on the land books for the years _____, or as property escheated to the State of West Virginia, or as waste or unappropriated property) for the sum of \$_____, that being the amount of purchase money paid to the deputy commissioner, and _____ (here insert name of purchaser) did become the purchaser of such real estate, which was returned delinquent in the name of _____ (or nonentered in the name of, or escheated from the estate of, or which was discovered as waste or unappropriated property); and

Whereas, the deputy commissioner has caused the notice to redeem to be served on all persons required by law to be served therewith; and

Whereas, the real estate so purchased has not been redeemed in the manner provided by law and the time for redemption set forth in such notice has expired.

Now, therefore, the grantor for and in consideration of the premises recited herein, and pursuant to the provisions of Article 3, Chapter 11A of the West Virginia Code, doth grant unto _____, grantee, his or her heirs and assigns forever, the real estate so purchased, situate in the County of _____, bounded and described as follows: _____ (here insert description of property)

Witness the following signature:

Deputy Commissioner of Delinquent and Nonentered Lands of _____ County

Except when ordered as provided in §11A-3-60 of this code, the deputy commissioner shall execute and deliver a deed within 120 days after the purchaser's right to the deed accrued.

For the preparation and execution of the deed and for all the recording required by this section, a fee of \$50 and the recording expenses shall be charged, to be paid by the grantee upon delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by the clerk of the county commission in the deed book in his or her office, together with the assignment from the purchaser, if one was made, the notice to redeem, the return of service of such notice, the affidavit of publication, if the notice was served by publication, and any return receipts for notices sent by certified mail.

Upon payment of the final costs and fees required by this article, the purchaser shall have the right to inspect and perform necessary and reasonable repairs for the preservation of the real property: *Provided*, That the current occupant has a duty to preserve the property to the best of his or her ability and control.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for Senate Bill 405—A Bill to amend and reenact §11A-3-23, §11A-3-25, §11A-3-56, §11A-3-57, §11A-3-58, and §11A-3-59 of the Code of West Virginia, 1931, as amended, all relating to increasing the limit to \$500 on additional expenses a purchaser may recover in preparing notice list for redemption of purchase and for licensed attorney's title examination.

Respectfully submitted,

Gregory L. Boso, *Chair*, Dave Sypolt, Corey Palumbo, *Conferees on the part of the Senate*.

Jeffrey Pack, *Chair*, Tom Bibby, Tim Tomblin, *Conferees on the part of the House of Delegates*.

Senator Boso, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Boso, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 405, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Palumbo—1.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 405) passed with its conference amended title.

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

Senator Weld, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Senate Bill 596 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House of Delegates recede from its amendments to the bill;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Senate Bill 596—A Bill to amend and reenact §17A-2-12a of the Code of West Virginia, 1931, as amended, relating to the ability of applicants to make voluntary contributions of specified dollar amounts to the West Virginia Department of Veterans Assistance on forms created by the Division of Motor Vehicles and adding thereto a category for unspecified amounts.

Respectfully submitted,

Ryan W. Weld, *Chair*, Dave Sypolt, Glenn D. Jeffries, *Conferees on the part of the Senate*.

Jason Harshbarger, *Chair*, Chris Phillips, William G. Hartman, *Conferees on the part of the House of Delegates*.

On motions of Senator Weld, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Senate Bill 596, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 596) passed with its conference amended title.

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

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

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

House Concurrent Resolution 28—Requesting the Division of Highways name bridge number 20-61-13.51 (20A817), locally known as New Chesapeake Bridge, carrying WV Route 61 over Fields Creek in Kanawha County, the “Charleston Police Capt. Jerry D. Hill Memorial Bridge”.

At the request of Senator Palumbo, and by unanimous consent, reference of the resolution to a committee was dispensed with and it was taken up for immediate consideration.

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

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

On motion of Senator Takubo, at 10:31 p.m., the Senate recessed until 11 p.m. tonight.

The Senate reconvened at 11:10 p.m. tonight.

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

Eng. Com. Sub. for Senate Bill 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

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

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

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

Eng. Com. Sub. for Senate Bill 561—A Bill to amend and reenact §7-1-3ss of the Code of West Virginia, 1931, as amended; to amend and reenact §11-16-18 of said code; to amend said code by adding thereto two new sections, designated §60-2-17a and §60-2-17b; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto two new sections, designated §60-7-6a and §60-7-8a; to amend and reenact §60-8-34 of said code; and to amend and reenact §61-8-27 of said code, all relating to alcoholic beverages generally; creating a county option election on forbidding nonintoxicating beer, wine or alcoholic liquors to be sold, given or dispensed after 10:00 a.m. on Sundays in lieu of an county option election to permit such sales; delineating hours of unlawful sale on a Sunday generally; permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement; limiting the jurisdiction of

such requested law enforcement assistance; implementing a \$100 operations fee and establishing special revenue account and fund; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink with certain exceptions; clarifying prohibition on liquor bottle sales in Class A licenses; providing for a bottle service fee and establishing requirements for bottle service; clarifying certain licensing requirements for licensure; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; forbidding the operation of certain bring your own bottle establishments; creating a private fair and festival license; definitions; license requirements; license fee; creating the private hotel license and license fee; creating a private nine-hole golf course license and fee; removing the need for golf carts to be offered at licensed golf courses; definitions; license requirements; license fee; permitting a private resort hotel to have inner-connection with a resident brewer who has a brewpub; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees who fail to timely file their renewal application and pay their annual license fees; permitting a license privilege for certain licensees to operate a connected but separately operated Class A on-premises license and a Class B off-premises license; clarifying that certain state-licensed gaming is permissible in a private club; clarifying permitted hours of operation for certain licensees; clarifying unlawful Sunday sales for certain wine licensees; and permitting minors to attend a private hotel, private nine-hole golf course, and a private fair or festival under certain conditions.

Senator Takubo moved that the Senate concur in the foregoing further House of Delegates amendment to the amendments to the bill.

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 561, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Boley, Maroney, and Woelfel—4.

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. 561) passed with its House of Delegates amended title.

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

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

Eng. House Bill 3139, Relating to funding of the Public Employees Health Insurance Program.

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

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

On page two, section fifteen-a, subsection (b), by striking out the words "shall consist of moneys collected from" and inserting in lieu thereof the words "may consist of moneys appropriated by the Legislature.";

And,

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

Eng. House Bill 3139—A Bill to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11B-2-15a, all relating generally to funding of Public Employees Health Insurance Program; requiring the finance board to maintain a reserve fund at actuarially recommended amounts of at least 10 percent of plan costs; removing requirement to transfer moneys resulting from plan savings into reserve fund; removing requirement that excess funds be transferred to West Virginia Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fund as special, nonexpiring, interest-bearing revenue account in the State Treasury; providing funding for the Fund from appropriations, investment income and other sources; providing for the administration of the fund, including investment of funds, transfer of funds, and purposes for which the fund can be used; and authorizing the promulgation of emergency and legislative rules.

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

Engrossed House Bill 3139, as amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3139 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Maroney, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3139) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Maroney, and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3139) 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 concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

Eng. House Bill 3143, Relating to requirements for consumer loans in West Virginia.

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

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

On page one, after the article heading, by inserting a new section, designated section one hundred one, to read as follows:

§46A-4-101. Authority to make loans.

Unless a person has first obtained a license from the commissioner authorizing ~~him~~ the person to make regulated consumer loans, he ~~shall~~ or she may not engage in the business of:

(1) Making regulated consumer loans; or

(2) Taking assignments of ~~and~~ or undertaking direct collection of payments from or enforcement of rights against consumers arising from regulated consumer loans: Provided, That the licensing provisions of this act do not pertain to any "collection agency" as defined in, and licensed by, the "Collection Agency Act of 1973" at W. Va. Code §§47-16-1 et seq.

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

Following discussion,

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

Engrossed House Bill 3143, as amended, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3143 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Mann, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Ihlenfeld, Jeffries, Lindsay, Prezioso, and Unger—6.

Absent: Boley, Maroney, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3143) 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 adoption by that body and requested the concurrence of the Senate in the adoption of the following resolutions:

Com. Sub. for House Concurrent Resolution 5—Requesting the Division of Highways name bridge number 32-122-7.94 (32A054) (37.54070, -80.66364), locally known as Indian Creek Bridge #1, carrying WV 122 over Indian Creek in Monroe County, the “U. S. Army T/5 Maurice V. Mann Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 9—Requesting the Division of Highways rename bridge number 25-64/1-0.04 (25A106), locally known as Kingmont Road Overpass, carrying Route 64 over Interstate 79 in Marion County, as the “Kingmont Veterans Bridge PVT Jarrett Springer, U. S. Army WWII, PFC Benjamin “Benny” Hamrick, USMC Vietnam”.

House Concurrent Resolution 36—Requesting the Division of Highways name bridge number 42-42-5.95 (42A-097) crossing the Middle Fork River at Helvetia, Adolph Road, at Adolph, Randolph County, be named the “SPEC 5 Garry Monzel ‘Michael’ Shannon Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 37—Requesting the Division of Highways name bridge number 42-21-13.39, locally known as the Spillway Bridge, near Elkins in Randolph County, crossing the Tygart Valley River on Georgetown Road, the “SSGT Thomas Gavin Hess Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 40—Requesting the Division of Highways name bridge number 16-55-11.40 (16A136), locally known as U. S. 220 Connector Bridge, carrying West Virginia Route 55 over South Valley Branch Railroad and Dumpling Run in Hardy County, the “U. S. Army CAPT William H. Denney, Jr. Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 42—Requesting the Division of Highways name bridge number 16-55-11.40 (16A136), locally known as U. S. 220 Connector Bridge, carrying West Virginia Route 55 over South Valley Branch Railroad and Dumpling Run in Hardy County, the “U. S. Army CAPT William H. Denney, Jr. Memorial Bridge”.

House Concurrent Resolution 46—Requesting the Division of Highways name bridge number 16-55/2C-3.76, crossing U. S. 48 at the East Moorefield exit, locally known as the Cunningham Lane Bridge in Moorefield, Hardy County, the “PVT Jack C. Evans Memorial Bridge”.

House Concurrent Resolution 47—Requesting the Division of Highways to add “UMWA President 1972-1979” to bridge number 20-77-83.84 (20A615), carrying Interstate 77/64 over Route 79/3 and Cabin Creek in Kanawha County that was named in 2017 as the “U. S. Army PFC Arnold Miller Memorial Bridge”

Com. Sub. for House Concurrent Resolution 49—Requesting the Division of Highways to name bridge number 54-14-24.76 (54A039), locally known as Big Run Bridge, carrying WV 14 over Big Run in Wood County, the “U. S. Marine Corps PFC Danny Marshall Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 52—Requesting the Division of Highways name bridge number 36-33-33.85 (36A165), carrying U. S. Route 33 over the South Branch of the Potomac River in Pendleton County, the “Dr. H. Luke Eye Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 53—Requesting the Division of Highways name northbound and southbound bridges numbered 04-79-54.18 (04A109, 04A110), locally known as the Co 21 Overpass Bridges, carrying Interstate 79 over County Route 21 in Braxton County, the “Ray P. Reip Memorial Bridge”.

House Concurrent Resolution 54—Requesting the Division of Highways name the new Cairo Bridge (State Project No. S343-31-9.82 Federal Project No. STP-0031(037)D) to be located on Main Street, in Cairo, Ritchie County that crosses the North Fork Hughes River, and replaces bridge number 43-31-9.82, the “U. S. Navy AOAN David ‘Wayne’ Cornell Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 55—Requesting the Division of Highways name bridge number 18-77-119.86 NB & SB (18A150, 18151) locally known as Goldtown Interchange Bridges, carrying Interstate 77 over County Route 21 and Pocatlico Creek in Jackson County, the “U. S. Navy Seaman 1st Class Brady William Milam Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 58—Requesting Division of Highways to name that portion of I-64/I-77 beginning at mile marker 93 and ending at mile marker 94 in Kanawha County, the “U. S. Army SGT Tommy Meadows Memorial Road”.

House Concurrent Resolution 63—Requesting the Division of Highways name a section of U.S. Route 250 from its intersection with U.S. 219 at Huttonsville, West Virginia, south to the Pocahontas County Line at Randolph County, the “U. S. Army SSG Boggs G. Collins Memorial Road”.

Com. Sub. for House Concurrent Resolution 64—Requesting the Division of Highways to name bridge number 04-5/6-7.33 (04A193), locally known as the Riffle Box Beam Bridge, carrying County Route 5/6 over Perkins Fork of Cedar Creek in Braxton County, the “U. S. Army CPL Jerry Lee Noble Memorial Bridge”.

House Concurrent Resolution 68—Requesting the Division of Highways name that portion of U. S. Route 19 (Princeton Avenue) in Bluefield, beginning at Monroe Street and ending at Clay Street, in Mercer County, the “Bluefield Police Lt. Aaron L. Crook Memorial Road”.

Com. Sub. for House Concurrent Resolution 70—Requesting the Division of Highways name bridge number: 44-119-9.04 (44A109), locally known as Walton Bridge, carrying U. S. 119 over the Pocatlico River in Roane County, the “Danny Wayne Marks Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 72—Requesting the Division of Highways name that portion of County Route 14 in Roane, West Virginia, north of Spencer, from its intersection with County Route 9 (Spring Creek Road) to Route 14/12 (Hospital Drive), the “U. S. Army PFC Harold Paul Cottle Memorial Highway”.

House Concurrent Resolution 73—Requesting the Division of Highways name bridge number 24-161-14.11 (24A189), locally known as Blackwolf Bridge, carrying WV 161 over the Tug Fork in McDowell County, the “U. S. Army SGT Matthew T. Miller Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 76—Requesting the Division of Highways name bridge Number :04-1-4.02 (04A001), locally known as Orlando Bridge, carrying County Route 1 over Oil Creek in Braxton County, the “Reverend Lonnie Ramsey Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 78— Requesting the Division of Highways name bridge number 20-61/7-0.56 (20A185), locally known as Pratt Pony Truss, carrying County Route 61/7 over Paint Creek in Kanawha County, the “U. S. Air Force Amn Kenneth Wayne Hammar Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 79—Requesting the Division of Highways name bridge number 42-25-0.04 (42A185), locally known as Glenmore Bridge, carrying County Route 25 over Isner Creek in Randolph County, the “U. S. Army PFC Homer Jacob Day Memorial Bridge”.

Com. Sub. for House Concurrent Resolution 82—Requesting the Division of Highways to name bridge number 20-60-22.55 EB & WB (20A346, 20A680), locally known as Campbells Creek Overpass EB & WB, carrying US 60 (EB & WB) over Port Amherst Drive and Railroad in Kanawha County, the “U. S. Navy GM1 Samuel H. Slack, Jr. Memorial Bridge”.

House Concurrent Resolution 91—Requesting the Division of Highways name bridge number :51-20-39.84 (51A084), locally known as Hacker Valley Truss, carrying WV Route 20 over the Left Fork of Holly River in Webster County, the “U. S. Army SGT. Robert Henry Waggy Memorial Bridge”.

Senator Takubo requested unanimous consent that references of the resolutions (Com. Sub. for H. C. R. 5, 9, 37, 40, 42, 49, 52, 53, 55, 58, 64, 70, 72, 76, 78, 79, and 82 and H. C. R. 36, 46, 47, 54, 63, 68, 73, and 91) to a committee be dispensed with, and that they be taken up for immediate consideration and considered simultaneously.

Which consent was not granted, Senator Sypolt objecting.

On motion of Senator Takubo, references of the resolutions (Com. Sub. for H. C. R. 5, 9, 37, 40, 42, 49, 52, 53, 55, 58, 64, 70, 72, 76, 78, 79, and 82 and H. C. R. 36, 46, 47, 54, 63, 68, 73, and 91) to a committee were dispensed with, and they were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions.

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

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

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 adoption by that body and requested the concurrence of the Senate in the adoption of the following resolutions:

House Concurrent Resolution 85—Requesting the Joint Committee on Government and Finance study the feasibility of combining the volunteer fire departments in our state under a single policy for workers' compensation coverage, self-insuring workers' compensation coverage for volunteer fire departments, or other workers' compensation coverage options.

House Concurrent Resolution 86—Requesting the Joint Committee on Government and Finance to study the consolidation of municipal, county and municipal, and county and county governments for efficiencies and economies of scale and to determine what appropriate incentives the state can provide.

House Concurrent Resolution 87—Requesting the Joint Committee on Government and Finance study the Public Service Commission to compare the interstate and intrastate regulation of haulers subjected to single, dual and multiple regulatory jurisdictions.

House Concurrent Resolution 88—Requesting the Joint Committee on Government and Finance study the Board of Risk and Insurance Management by evaluating their contracting for services, reviewing their premium structures and rates, identifying their activities to provide transparency to the public and governmental entities and reviewing their fiscal responsibilities.

House Concurrent Resolution 93—Requesting the Joint Committee on Energy study legislation relating to the deregulation of natural gas for certain high-volume natural gas consumers.

House Concurrent Resolution 108—Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of authorizing and regulating a program for the rental of privately owned passenger motor vehicles through what is commonly known as a peer-to-peer car sharing program, establishing a regulatory framework to enable peer-to-peer car sharing entities to operate in West Virginia and the manner in which individually owned passenger motor vehicles are rented, maintained and insured in the program.

At the request of Senator Takubo, and by unanimous consent, references of the resolutions (H. C. R. 85, 86, 87, 88, 93, and 108) to a committee were dispensed with, and they were taken up for immediate consideration and considered simultaneously.

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

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 adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 83—Requesting the creation of the West Virginia Distressed Water and Wastewater Utility Systems Viability Study Committee to conduct a study regarding the state's distressed water and wastewater infrastructure and submit a written report of findings and recommendations to the Joint Committee on Government and Finance.

At the request of Senator Takubo, and by unanimous consent, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration.

On motion of Senator Jeffries, the following amendments to the resolution (H. C. R. 83) were reported by the Clerk, considered simultaneously, and adopted:

On page three, after subsection (g), by inserting a new subsection, designated subsection (h), to read as follows:

“(h) The Executive Director of the West Virginia Water Development Authority, or designee;”;

And,

By relettering the remaining subsections.

The question now being on the adoption of the resolution (H. C. R. 83), as amended,, the same was put and prevailed.

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 that that body had refused to concur in the Senate amendment to the House of Delegates amendment, and requested the Senate to recede therefrom, as to

Eng. Senate Bill 665, Allowing for expedited oil and gas well permitting.

Senator Takubo moved that the Senate refuse to recede from its amendment to the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Takubo’s aforesated motion, and on this question, Senator Trump demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Maroney, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo’s aforesated motion had prevailed.

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 adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 61—Applying to and urging Congress to call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States and to limit the terms of office that a person may be elected as a Member of the United States House of Representatives and to set a limit on the number of terms that a person may be elected as a Member of the United States Senate.

At the request of Senator Takubo, and by unanimous consent, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration.

The question being on the adoption of the resolution.

Following extended discussion,

The midnight hour having arrived, the President stated all unfinished legislative business had expired due to the time element.

A series of messages from the House of Delegates having been received at his desk, the following communications were reported by the Clerk:

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

Eng. Com. Sub. for Senate Bill 4, Relating generally to Municipal Home Rule Program.

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

Eng. Senate Bill 28, Removing hotel occupancy tax limit collects for medical care and emergency services.

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

Eng. Com. Sub. for Senate Bill 40, Establishing Military Service Members Court program.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 90, Transferring Safety and Treatment Program from DHHR to DMV.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 241, Permitting county court clerks scan certain documents in electronic form.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 295, Relating to crimes against public justice.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Com. Sub. for Senate Bill 317, Authorizing three or more adjacent counties form multicounty trail network authority.

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

Eng. Com. Sub. for Senate Bill 352, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

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

Eng. Com. Sub. for Senate Bill 398, Relating to compensation for senior judges.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 405, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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

Eng. Senate Bill 424, Supplemental appropriation to Civil Contingent Fund.

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

Eng. Senate Bill 435, Supplemental appropriation to State Department of Education and Vocational Division.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 481, Relating to Judicial Vacancy Advisory Commission.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, to take effect July 1, 2019, of

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Com. Sub. for Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

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

Eng. Com. Sub. for Senate Bill 622, Relating generally to regulation and control of financing elections.

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

Eng. Com. Sub. for Senate Bill 624, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, to take effect July 1, 2019, of

Eng. Com. Sub. for Com. Sub. for Senate Bill 632, Improving student safety.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

Eng. Senate Bill 673, Relating to public higher education accountability and planning.

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

Eng. Senate Bill 678, Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology.

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

Eng. Senate Bill 681, Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority.

A message from the Clerk of the House of Delegates announced the rejection by that body of

Eng. Com. Sub. for Senate Joint Resolution 5, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment.

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

Senate Concurrent Resolution 5, Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions sign.

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

Senate Concurrent Resolution 6, US Army SP4 Darrell Gregory Triplett Memorial Bridge.

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

Senate Concurrent Resolution 16, US Army SP4 Wilbur Allen Smith Memorial Bridge.

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

Senate Concurrent Resolution 17, Sardis District Veterans Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 24, Hazel Dickens Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 26, Thompson-Lambert Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 28, US Army SP5 James Henry Caruthers Memorial Road.

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

Senate Concurrent Resolution 31, SGT James E. Mattingly Bridge.

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

Senate Concurrent Resolution 32, US Army SSG Henry Kilgore Bridge.

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

Com. Sub. for Senate Concurrent Resolution 34, US Army SPC Julian Lee Berisford Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 36, US Army CPL Cory M. Hewitt Memorial Bridge.

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

Senate Concurrent Resolution 38, Urging CSX support New River Train.

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

Com. Sub. for Senate Concurrent Resolution 45, US Army Corporal T-5 Albert John "Engine" Arco Memorial Bridge.

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

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

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

Eng. Com. Sub. for House Bill 2049, Relating to a prime contractor's responsibility for wages and benefits.

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, to take effect from passage, of

Eng. Com. Sub. for House Bill 2079, Removing certain limitations on medical cannabis grower, processor and dispensary licenses.

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 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

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

Eng. House Bill 2474, Relating to a reserving methodology for health insurance and annuity contracts.

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

Eng. Com. Sub. for House Bill 2503, Relating to court actions.

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, of

Eng. Com. Sub. for House Bill 2583, Family Planning Access Act.

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 2618, Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person.

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

Eng. House Bill 2665, Supplemental appropriation for PEIA Rainy Day Fee.

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 2673, Creating the Oil and Gas Abandoned Well Plugging Fund.

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 2674, Creating a student loan repayment program for a mental health provider.

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 2694, Relating to the state's ability to regulate hemp.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, to take effect July 1, 2019, of

Eng. Com. Sub. for House Bill 2761, Modernizing the self-service storage lien law.

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

Eng. Com. Sub. for House Bill 2768, Reducing the use of certain prescription drugs.

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 2770, Fairness in Cost-Sharing Calculation Act.

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 2807, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

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. House Bill 2828, Relating to Qualified Opportunity Zones.

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, of

Eng. Com. Sub. for House Bill 2849, Establishing different classes of pharmacy technicians.

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 2933, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury.

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. House Bill 2934, West Virginia Lottery Interactive Wagering Act.

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, of

Eng. Com. Sub. for House Bill 2947, Relating generally to telemedicine prescription practice requirements and exceptions.

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. House Bill 2968, Adding remote service unit to the definition of customer bank communications terminals.

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, of with its Senate amended title,

Eng. Com. Sub. for House Bill 2982, Amending and updating the laws relating to auctioneers.

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. House Bill 3020, Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

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

Eng. Com. Sub. for House Bill 3024, West Virginia Business Ready Sites Program.

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 3057, Relating to the Adult Drug Court Participation Fund.

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 3131, Relating to providing salary adjustments to employees of the Department of Health and Human Resources.

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. House Bill 3142, Relating to reducing the severance tax on thermal or steam coal.

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. House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, Senator Takubo offered the following pre-adjournment resolution from the floor:

Senate Resolution 79—Raising a committee to notify the House of Delegates the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

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

Senator Carmichael (Mr. President), under the provisions of the foregoing resolution, appointed the following committee to notify the House of Delegates of impending Senate adjournment:

Senators Boso, Roberts, and Ihlenfeld.

At the request of Senator Takubo, and by unanimous consent, Senator Takubo then offered the following resolution from the floor:

Senate Resolution 80—Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to join with a similar committee of the House of Delegates to notify His Excellency, the Governor, that the Legislature has completed its labors and is ready to adjourn *sine die*.

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

Under the provisions of the foregoing resolution, Senator Carmichael (Mr. President) appointed the following committee to notify His Excellency, the Governor, that the Senate is ready to adjourn:

Senators Weld, Tarr, and Palumbo.

Thereafter, the President recognized the presence of a three-member delegation from the House of Delegates, namely:

Delegates Foster, Sypolt, and Boggs, who announced that that body had completed its labors and was ready to adjourn *sine die*.

The President then acknowledged another delegation from the House of Delegates, consisting of

Delegates J. Kelly, Phillips, and Byrd, who announced that they had been appointed by that body to join with the similar committee named by the Senate to wait upon His Excellency and were ready to proceed with its assignment.

Senators Weld, Tarr, and Palumbo, comprising the Senate committee, then joined with the House committee and proceeded to the executive offices to notify His Excellency, the Governor, of imminent legislative adjournment, and receive any message he might desire to transmit to the members of the Senate.

On motion of Senator Maynard, the Joint Committee on Enrolled Bills was directed after it has examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of the regular sixty-day session of the Legislature, to file its reports with the Clerk of bills so enrolled, showing the date such bills were presented to the Governor; said reports to be included in the final Journal, together with Governor's action on said bills.

In accordance with the foregoing motion, the following reports of the Joint Committee on Enrolled Bills were filed as follows:

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 11th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 72), Creating Sexual Assault Victims' Bill of Rights.

(Com. Sub. for Com. Sub. for S. B. 310), Establishing certain requirements for dental insurance.

(Com. Sub. for S. B. 393), Protecting right to farm.

(Com. Sub. for S. B. 408), Determining indigency for public defender services.

(Com. Sub. for S. B. 441), Relating to higher education campus police officers.

(Com. Sub. for S. B. 520), Requiring entities report drug overdoses.

(S. B. 636), Authorizing legislative rules for Higher Education Policy Commission.

(Com. Sub. for S. B. 641), Relating to Primary Care Support Program.

(Com. Sub. for H. B. 3007), Authorizing the Commissioner of Agriculture to require background checks.

(Com. Sub. for H. B. 3021), Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

(H. B. 3045), Exempting certain complimentary hotel rooms from hotel occupancy tax.

(H. B. 3083), Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

(H. B. 3095), Establishing a minimum monthly retirement annuity for certain retirants.

And,

(H. B. 3148), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 13th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 424), Supplemental appropriation to Civil Contingent Fund.

(S. B. 435), Supplemental appropriation to State Department of Education and Vocational Division.

(S. B. 677), Supplemental appropriation to Division of Health and Division of Human Services.

(S. B. 678), Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology.

(S. B. 679), Supplemental appropriation to Division of Finance.

(S. B. 680), Supplemental appropriations to various divisions in DMAPS.

(S. B. 681), Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority.

(Com. Sub. for H. B. 2020), Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

(H. B. 2665), Supplemental appropriation for PEIA Rainy Day Fee.

(H. B. 2667), Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

And,

(H. B. 3135), Expiring funds to the balance of the Department of Commerce, Development Office.

Respectfully submitted,

Richard D. Lindsay II,
Member, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2363), Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

(Com. Sub. for H. B. 2452), Creating the West Virginia Cybersecurity Office.

(H. B. 2515), Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

And,

(H. B. 2525), Tobacco Cessation Therapy Access Act.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 60), Licensing practice of athletic training.

(Com. Sub. for S. B. 101), Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

(Com. Sub. for S. B. 187), Authorizing Department of Revenue to promulgate legislative rules.

(Com. Sub. for S. B. 237), Improving ability of law enforcement to locate and return missing persons.

(Com. Sub. for Com. Sub. for S. B. 285), Relating to sale of homemade food items.

(Com. Sub. for S. B. 330), Requiring contact information be listed on agency's online directory and website.

(Com. Sub. for S. B. 344), Relating to operation of state-owned farms.

(Com. Sub. for S. B. 491), Extending effective date for voter registration in conjunction with driver licensing.

(S. B. 493), Correcting terminology referring to racing vehicles illegally on street.

(Com. Sub. for S. B. 511), Creating alternating wine proprietorships.

(Com. Sub. for S. B. 537), Creating workgroup to review hospice need standards.

(Com. Sub. for S. B. 597), Conforming state law to federal law for registration of appraisal management companies.

(S. B. 617), Relating to method of payment to Municipal Pensions Security Fund.

(S. B. 625), Clarifying and defining authority of State Athletic Commission.

(S. B. 633), Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

(Com. Sub. for S. B. 653), Relating generally to practice of medical corporations.

(S. B. 655), Relating to conservation districts generally.

(Com. Sub. for S. B. 657), Providing consumer protection regarding self-propelled farm equipment.

(S. B. 676), Relating to off-road vehicle recreation.

(H. B. 2311), Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

(Com. Sub. for H. B. 2362), Ardala Miller Memorial Act.

(Com. Sub. for H. B. 2405), Imposing a healthcare related provider tax on certain health care organizations.

(H. B. 2509), Clarifying that theft of a controlled substance is a felony.

(H. B. 2530), Creating a voluntary certification for recovery residences.

(H. B. 2547), Relating to the election prohibition zone.

(Com. Sub. for H. B. 2550), Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

(H. B. 2872), Authorizing law-enforcement officers to assist the State Fire Marshal.

And,

(H. B. 2958), Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 20th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for Com. Sub. for S. B. 1), Increasing access to career education and workforce training.

(Com. Sub. for S. B. 3), Establishing WV Small Wireless Facilities Deployment Act.

(S. B. 28), Removing hotel occupancy tax limit collects for medical care and emergency services.

(Com. Sub. for S. B. 30), Eliminating tax on annuity considerations collected by life insurer.

(Com. Sub. for S. B. 40), Establishing Military Service Members Court program .

(Com. Sub. for S. B. 61), Adding certain crimes for which prosecutor may apply for court order authorizing interception of communications.

(Com. Sub. for Com. Sub. for S. B. 90), Transferring Safety and Treatment Program from DHHR to DMV.

(Com. Sub. for S. B. 100), Increasing court fees to fund law-enforcement standards training and expenses.

(Com. Sub. for S. B. 147), Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

(Com. Sub. for S. B. 152), Relating generally to criminal offense expungement.

(Com. Sub. for S. B. 163), Authorizing DEP promulgate legislative rules.

(Com. Sub. for S. B. 175), Authorizing DHHR promulgate legislative rules.

(S. B. 190), DOH promulgate legislative rule relating to employment procedures.

(Com. Sub. for S. B. 223), Authorizing Department of Commerce promulgate legislative rules.

(Com. Sub. for S. B. 241), Permitting county court clerks scan certain documents in electronic form.

(Com. Sub. for S. B. 295), Relating to crimes against public justice.

(Com. Sub. for S. B. 316), Preserving previously approved state Municipal Policemen's or Firemen's pensions.

(Com. Sub. for S. B. 345), Relating to fire service equipment and training funds for VFDs.

(Com. Sub. for S. B. 352), Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities.

(Com. Sub. for S. B. 373), Relating to financial responsibility of inmates.

(Com. Sub. for S. B. 398), Relating to compensation for senior judges.

(Com. Sub. for S. B. 502), Exempting sales of investment metal bullion and coins.

(S. B. 519), Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

(S. B. 531), Relating generally to workers' compensation claims.

(Com. Sub. for S. B. 546), Creating tax on certain acute care hospitals.

(S. B. 587), Relating to PEIA reimbursement of air ambulance providers.

(S. B. 635), Relating generally to coal mining activities.

(S. B. 664), Authorizing certain members of federal judiciary perform marriages.

(S. B. 667), Creating WV Motorsport Committee.

(S. B. 668), Relating to physician assistants collaborating with physicians in hospitals.

(S. B. 675), Requiring DEP create and implement Adopt-A-Stream Program.

(H. B. 2954), Defining certain terms used in insurance.

And,

(Com. Sub. for H. B. 2975), Relating to imposition of sexual acts on persons incarcerated.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 21st day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2001), Relating to exempting social security benefits from personal income tax.

(Com. Sub. for H. B. 2010), Relating to foster care.

(Com. Sub. for H. B. 2049), Relating to a prime contractor's responsibility for wages and benefits.

(H. B. 2209), Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

(Com. Sub. for H. B. 2378), Relating generally to grounds for revocation of a teaching certificate.

(Com. Sub. for H. B. 2396), West Virginia Fresh Food Act.

(H. B. 2412), Relating to criminal acts concerning government procurement of commodities and services.

(Com. Sub. for H. B. 2422), Relating to the time for the observation of "Celebrate Freedom Week".

(Com. Sub. for H. B. 2490), Preventing proposing or enforcing rules that prevent recreational water facilities from making necessary upgrades.

(Com. Sub. for H. B. 2540), Prohibiting the waste of game animals, game birds or game fish.

(Com. Sub. for H. B. 2541), Requiring certain safety measures be taken at public schools.

(Com. Sub. for H. B. 2579), Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

(Com. Sub. for H. B. 2601), Relating to the review and approval of state property leases.

(Com. Sub. for H. B. 2617), Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

(H. B. 2647), Self Storage Limited License Act.

(Com. Sub. for H. B. 2661), Relating to natural gas utilities.

(Com. Sub. for H. B. 2662), Relating to certificates or employment of school personnel.

(Com. Sub. for H. B. 2715), Relating to Class Q special hunting permit for disabled persons.

(H. B. 2716), Relating to vessel lighting and equipment requirements.

(H. B. 2739), Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

(Com. Sub. for H. B. 2907), Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

(H. B. 2992), Relating to governmental websites.

(H. B. 3044), Requiring the Commissioner of Highways to develop a formula for allocating road funds.

And,

(Com. Sub. for H. B. 3057), Relating to the Adult Drug Court Participation Fund.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 22nd day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 4), Relating generally to Municipal Home Rule Program.

(S. B. 16), Authorizing expenditure of surplus funds by Wyoming County Commission.

(S. B. 36), Allowing adjustment of gross income for calculating personal income liability for certain retirees.

(Com. Sub. for S. B. 103), Relating generally to Public Defender Services.

(S. B. 153), Providing greater flexibility for making infrastructure project grants.

(Com. Sub. for S. B. 154), Using school facilities for funeral and memorial services for certain community members.

(Com. Sub. for S. B. 199), Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

(Com. Sub. for S. B. 238), Increasing certain penalties for illegally passing stopped school bus.

(Com. Sub. for S. B. 264), Requiring courts to order restitution to crime victims where economically practicable.

(Com. Sub. for S. B. 291), Relating generally to survivor benefits for emergency response providers.

(Com. Sub. for Com. Sub. for S. B. 317), Authorizing three or more adjacent counties form multicounty trail network authority.

(Com. Sub. for S. B. 318), Transferring Medicaid Fraud Control Unit to Attorney General's office.

(Com. Sub. for S. B. 329), Relating to agricultural education in high schools.

(Com. Sub. for S. B. 340), Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

(Com. Sub. for S. B. 357), Relating generally to Division of Administrative Services.

(Com. Sub. for S. B. 360), Relating to third-party litigation financing.

(Com. Sub. for S. B. 369), Relating to generic drug products.

(Com. Sub. for S. B. 396), Waiving occupational licensing fees for low-income individuals and military families.

(Com. Sub. for S. B. 400), Allowing Board of Dentistry create specialty licenses.

(Com. Sub. for Com. Sub. for S. B. 402), Authorizing Division of Forestry investigate and enforce timber theft violations.

(Com. Sub. for S. B. 404), Relating generally to sediment control during commercial timber harvesting operations.

(Com. Sub. for S. B. 405), Increasing limit on additional expenses incurred in preparing notice list for redemption.

(S. B. 421), Relating to annual legislative review of economic development tax credit.

(S. B. 461), Relating generally to lottery prizes.

(Com. Sub. for S. B. 481), Relating to Judicial Vacancy Advisory Commission.

(Com. Sub. for S. B. 485), Clarifying notification requirements for property insurance purposes.

(Com. Sub. for S. B. 487), Relating to admissibility of health care staffing requirements in litigation.

(Com. Sub. for S. B. 496), Transferring authority to regulate milk from DHHR to Department of Agriculture.

(S. B. 499), Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

(Com. Sub. for Com. Sub. for S. B. 522), Creating Special Road Repair Fund.

(Com. Sub. for S. B. 529), Clarifying provisions of Nonintoxicating Beer Act.

(Com. Sub. for S. B. 538), Relating to WV Highway Design-Build Pilot Program.

(Com. Sub. for S. B. 539), Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

(Com. Sub. for Com. Sub. for S. B. 543), Relating generally to automobile warranties and inspections.

(S. B. 544), Increasing salaries for members of WV State Police over three-year period.

(S. B. 550), Declaring certain claims to be moral obligations of state.

(S. B. 554), Removing salary caps for director of State Rail Authority.

(Com. Sub. for S. B. 561), Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

(Com. Sub. for S. B. 564), Expanding comprehensive coverage for pregnant women through Medicaid.

(S. B. 566), Relating to compensation for State Athletic Commission members.

(S. B. 596), Adjusting voluntary contribution amounts on certain DMV forms.

(Com. Sub. for S. B. 600), Relating to preservation of biological evidence obtained through criminal investigations and trials.

(Com. Sub. for S. B. 601), Relating to mandatory supervision of adult inmates.

(Com. Sub. for S. B. 603), Exempting certain activities from licensing requirements for engaging in business of currency exchange.

(S. B. 605), Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.

(Com. Sub. for S. B. 613), Requiring DNR include election of organ donation on hunting licenses.

(Com. Sub. for S. B. 622), Relating generally to regulation and control of financing elections.

(Com. Sub. for S. B. 624), Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

(S. B. 627), Relating generally to Rural Rehabilitation Loan Program.

(Com. Sub. for Com. Sub. for S. B. 632), Improving student safety.

(Com. Sub. for S. B. 640), Regulating sudden cardiac arrest prevention.

(S. B. 656), Relating to electronic filing of tax returns.

(S. B. 658), Relating to motor vehicle salesperson licenses.

(S. B. 669), Allowing appointment of commissioners to acknowledge signatures.

(S. B. 670), Relating to WV College Prepaid Tuition and Savings Program.

(S. B. 672), Authorizing School Building Authority to promulgate legislative rules.

(S. B. 673), Relating to public higher education accountability and planning.

And,

(Com. Sub. for H. B. 2486), Using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2004), Providing for a program of instruction in workforce preparedness.

(H. B. 2009), Creating a new category of Innovation in Education grant program.

(H. B. 2474), Relating to a reserving methodology for health insurance and annuity contracts.

(Com. Sub. for H. B. 2479), Corporate Governance Annual Disclosure Act.

(Com. Sub. for H. B. 2503), Relating to court actions.

(Com. Sub. for H. B. 2524), Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

(Com. Sub. for H. B. 2583), Family Planning Access Act.

(Com. Sub. for H. B. 2600), Relating to publication of sample ballots.

(Com. Sub. for H. B. 2618), Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person.

(Com. Sub. for H. B. 2673), Creating the Oil and Gas Abandoned Well Plugging Fund.

(Com. Sub. for H. B. 2674), Creating a student loan repayment program for a mental health provider.

(Com. Sub. for H. B. 2694), Relating to the state's ability to regulate hemp.

(H. B. 2709), Relating to hunting licenses.

(Com. Sub. for H. B. 2761), Modernizing the self-service storage lien law.

(Com. Sub. for H. B. 2768), Reducing the use of certain prescription drugs.

(Com. Sub. for H. B. 2770), Fairness in Cost-Sharing Calculation Act.

(Com. Sub. for H. B. 2809), Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

(Com. Sub. for H. B. 2813), Relating generally to collection of use tax.

(H. B. 2816), Removing the terms "hearing impaired," "hearing impairment," and "deaf mute" from the West Virginia Code and substituting terms.

(H. B. 2828), Relating to Qualified Opportunity Zones.

(Com. Sub. for H. B. 2831), Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

(H. B. 2846), Relating to special vehicle registration plates.

(Com. Sub. for H. B. 2849), Establishing different classes of pharmacy technicians.

(H. B. 2850), Relating to qualifications for commercial driver's license.

(H. B. 2853), Establishing the West Virginia Program for Open Education Resources.

(H. B. 2856), Relating to the administration of the operating fund of the securities division of the Auditor's office.

(H. B. 2926), Requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans.

(Com. Sub. for H. B. 2933), Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury.

(H. B. 2934), West Virginia Lottery Interactive Wagering Act.

(Com. Sub. for H. B. 2945), Relating to vendors paying a single annual fee for a permit issued by a local health department.

(Com. Sub. for H. B. 2947), Relating generally to telemedicine prescription practice requirements and exceptions.

(H. B. 2968), Adding remote service unit to the definition of customer bank communications terminals.

(Com. Sub. for H. B. 2982), Amending and updating the laws relating to auctioneers.

(Com. Sub. for H. B. 3016), Relating to the State Aeronautics Commission.

(H. B. 3020), Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

(Com. Sub. for H. B. 3024), West Virginia Business Ready Sites Program.

(Com. Sub. for H. B. 3131), Relating to providing salary adjustments to employees of the Department of Health and Human Resources.

(H. B. 3132), Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment.

(H. B. 3139), Relating to funding of the Public Employees Health Insurance Program.

(H. B. 3141), Requiring capitol building commission authorization for certain renovations.

(H. B. 3142), Relating to reducing the severance tax on thermal or steam coal.

(H. B. 3143), Relating to requirements for consumer loans in West Virginia.

And,

(H. B. 3144), North Central Appalachian Coal Severance Tax Rebate Act.

Respectfully submitted,

Eric J. Tarr,
Member, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 27th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(**Com. Sub. for H. B. 2807**), Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

Respectfully submitted,

Eric J. Tarr,
Member, Senate Committee.
Moore Capito,
Chair, House Committee.

Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day's Journal communications showing the Governor's action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

The Clerk then presented communications from His Excellency, the Governor, advising that on March 14, 2019, he had approved **Enr. Senate Bill 424, Enr. Senate Bill 435, Enr. Senate Bill 677, Enr. Senate Bill 678, Enr. Senate Bill 679, Enr. Senate Bill 680, Enr. Senate Bill 681, Enr. House Bill 2665, Enr. House Bill 2667, and Enr. House Bill 3135**; on March 19, 2019, he had approved **Enr. Committee Substitute for House Bill 2204, Enr. Committee Substitute for House Bill 2359, Enr. House Bill 2547, Enr. House Bill 2608, Enr. Committee Substitute for House Bill 2737, Enr. House Bill 2827, Enr. Committee Substitute for House Bill 2854, Enr. Committee Substitute for House Bill 3007, Enr. House Bill 3045, Enr. House Bill 3083, and Enr. House Bill 3095**; on March 22, 2019, he had approved **Enr. Senate Bill 16, Enr. Senate Bill 36, Enr. Committee Substitute for Senate Bill 199, Enr. Committee Substitute for Senate Bill 223, Enr. Committee Substitute for Senate Bill 241, Enr. Committee Substitute for Senate Bill 264, Enr. Committee Substitute for Senate Bill 291, Enr. Committee Substitute for Senate Bill 329, Enr. Committee Substitute for Senate Bill 340, Enr. Committee Substitute for Senate Bill 357, Enr. Committee Substitute for Senate Bill 400, Enr. Committee Substitute for Senate Bill 408, Enr. Senate Bill 421, Enr. Committee Substitute for Senate Bill 441, Enr. Committee Substitute for Senate Bill 481, Enr. Committee Substitute for Senate Bill 518, Enr. Senate Bill 544, Enr. Senate Bill 617, Enr. Senate Bill 627, Enr. Committee Substitute for House Bill 2396, Enr. Committee Substitute for House Bill 2422, Enr. Committee Substitute for House Bill 2476, Enr. Committee Substitute for House Bill 2601, Enr. Committee Substitute for House Bill 2715, Enr. House Bill 2716, Enr. House Bill 2743, and Enr. Committee Substitute for House Bill 2907**; on March 25, 2019, he had approved **Enr. Committee Substitute for Committee Substitute for Senate Bill 1, Enr. Committee Substitute for Senate Bill 4, Enr. Senate Bill 28, Enr. Committee Substitute for Senate Bill 40, Enr. Committee Substitute for Committee Substitute for Senate Bill 90, Enr. Committee Substitute for Senate Bill 100, Enr. Committee Substitute for Senate Bill 101, Enr. Committee Substitute for Senate Bill 152, Enr. Senate Bill 153, Enr. Committee Substitute for Senate Bill 154, Enr. Committee Substitute for Senate Bill 237, Enr. Committee Substitute for Senate Bill 238, Enr. Committee Substitute for Committee Substitute for Senate Bill 285, Enr. Committee Substitute for Senate Bill 295, Enr. Committee Substitute for Committee Substitute for Senate Bill 310, Enr. Committee Substitute for Senate Bill 316, Enr. Committee Substitute for Committee Substitute for Senate Bill 317, Enr. Committee Substitute for Senate Bill 318, Enr. Committee Substitute for Senate Bill 330, Enr. Committee Substitute for Senate Bill 345, Enr. Committee Substitute for Senate Bill 352, Enr. Committee Substitute for Senate Bill 360, Enr. Committee Substitute for Senate Bill 369, Enr. Committee Substitute for Senate Bill 373,**

Enr. Committee Substitute for Senate Bill 396, Enr. Committee Substitute for Senate Bill 398, Enr. Committee Substitute for Committee Substitute for Senate Bill 402, Enr. Committee Substitute for Senate Bill 404, Enr. Committee Substitute for Senate Bill 405, Enr. Senate Bill 453, Enr. Senate Bill 461, Enr. Committee Substitute for Senate Bill 485, Enr. Committee Substitute for Senate Bill 491, Enr. Committee Substitute for Senate Bill 496, Enr. Senate Bill 499, Enr. Committee Substitute for Committee Substitute for Senate Bill 510, Enr. Committee Substitute for Senate Bill 511, Enr. Committee Substitute for Senate Bill 520, Enr. Committee Substitute for Senate Bill 529, Enr. Senate Bill 531, Enr. Committee Substitute for Committee Substitute for Senate Bill 543, Enr. Committee Substitute for Senate Bill 546, Enr. Senate Bill 554, Enr. Committee Substitute for Senate Bill 561, Enr. Committee Substitute for Senate Bill 564, Enr. Senate Bill 566, Enr. Senate Bill 587, Enr. Senate Bill 593, Enr. Senate Bill 596, Enr. Committee Substitute for Senate Bill 597, Enr. Committee Substitute for Senate Bill 601, Enr. Committee Substitute for Senate Bill 603, Enr. Senate Bill 605, Enr. Senate Bill 625, Enr. Committee Substitute for Committee Substitute for Senate Bill 632, Enr. Committee Substitute for Senate Bill 640, Enr. Committee Substitute for Senate Bill 641, Enr. Committee Substitute for Senate Bill 653, Enr. Senate Bill 655, Enr. Senate Bill 656, Enr. Committee Substitute for Senate Bill 657, Enr. Senate Bill 658, Enr. Senate Bill 667, Enr. Senate Bill 668, Enr. Senate Bill 669, Enr. Senate Bill 670, Enr. Senate Bill 673, Enr. Senate Bill 675, Enr. House Bill 2209, Enr. House Bill 2311, Enr. Committee Substitute for House Bill 2362, Enr. Committee Substitute for House Bill 2452, Enr. Committee Substitute for House Bill 2490, Enr. House Bill 2515, Enr. Committee Substitute for House Bill 2540, Enr. Committee Substitute for House Bill 2541, Enr. Committee Substitute for House Bill 2609, Enr. Committee Substitute for House Bill 2617, Enr. Committee Substitute for House Bill 2690, Enr. House Bill 2691, Enr. Committee Substitute for House Bill 2740, Enr. House Bill 2746, Enr. House Bill 2872, Enr. House Bill 2954, Enr. House Bill 2958, Enr. Committee Substitute for House Bill 2975, Enr. Committee Substitute for House Bill 3021, and Enr. House Bill 3093; on March 26, 2019, he had approved Enr. Committee Substitute for Senate Bill 60, Enr. Committee Substitute for Senate Bill 72, Enr. Committee Substitute for Senate Bill 157, Enr. Committee Substitute for Senate Bill 163, Enr. Committee Substitute for Senate Bill 175, Enr. Committee Substitute for Senate Bill 187, Enr. Committee Substitute for Senate Bill 344, Enr. Senate Bill 493, Enr. Senate Bill 519, Enr. Senate Bill 545, Enr. Senate Bill 550, Enr. Committee Substitute for Senate Bill 600, Enr. Committee Substitute for Senate Bill 613, Enr. Senate Bill 636, Enr. Senate Bill 664, Enr. Senate Bill 672, Enr. Committee Substitute for House Bill 2004, Enr. Committee Substitute for House Bill 2010, Enr. Committee Substitute for House Bill 2049, Enr. Committee Substitute for House Bill 2083, Enr. Committee Substitute for House Bill 2183, Enr. Committee Substitute for House Bill 2193, Enr. Committee Substitute for House Bill 2378, Enr. Committee Substitute for House Bill 2439, Enr. House Bill 2474, Enr. Committee Substitute for House Bill 2479, Enr. House Bill 2480, Enr. House Bill 2509, Enr. House Bill 2510, Enr. Committee Substitute for House Bill 2524, Enr. House Bill 2525, Enr. Committee Substitute for House Bill 2538, Enr. Committee Substitute for House Bill 2583, Enr. Committee Substitute for House Bill 2600, Enr. Committee Substitute for House Bill 2618, Enr. House Bill 2647, Enr. Committee Substitute for House Bill 2662, Enr. House Bill 2709, Enr. House Bill 2739, Enr. House Bill 2759, Enr. Committee Substitute for House Bill 2761, Enr. Committee Substitute for House Bill 2768, Enr. Committee Substitute for House Bill 2809, Enr. House Bill 2816, Enr. Committee Substitute for House Bill 2831, Enr. Committee Substitute for House Bill 2846, Enr. Committee Substitute for House Bill 2849, Enr. House Bill 2850, Enr. House Bill 2853, Enr. House Bill 2856, Enr. House Bill 2926, Enr. Committee Substitute for House Bill 2945, Enr. Committee Substitute for House Bill 2947, Enr. House Bill 2968, Enr. Committee Substitute for House Bill 2982, Enr. Committee Substitute for House Bill 3016, Enr. Committee Substitute for House Bill 3057, Enr.

Committee Substitute for House Bill 3131, Enr. House Bill 3132, Enr. House Bill 3140, Enr. House Bill 3141, and Enr. House Bill 3143; and on March 27, 2019, he had approved Enr. Committee Substitute for Senate Bill 3, Enr. Committee Substitute for Senate Bill 30, Second Enr. Committee Substitute for Senate Bill 61, Enr. Committee Substitute for Senate Bill 103, Enr. Committee Substitute for Senate Bill 393, Enr. Committee Substitute for Senate Bill 502, Enr. Committee Substitute for Senate Bill 537, Enr. Committee Substitute for Senate Bill 538, Enr. Committee Substitute for Senate Bill 539, Enr. Committee Substitute for Senate Bill 622, Enr. Senate Bill 635, Enr. Committee Substitute for House Bill 2001, Enr. House Bill 2009, Enr. Committee Substitute for House Bill 2405, Enr. Committee Substitute for House Bill 2550, Enr. Committee Substitute for House Bill 2694, Enr. Committee Substitute for House Bill 2770, Enr. Committee Substitute for House Bill 2813, Enr. House Bill 2829, Enr. Committee Substitute for House Bill 2848, Enr. House Bill 3020, Enr. House Bill 3139, Enr. House Bill 3142, and Enr. House Bill 3144.

[CLERK'S NOTE: **Enr. House Bill 2934** became law without the Governor's signature on March 28, 2019, under the provisions of Section 14, Article VII of the Constitution of West Virginia.]



Jim Justice
Governor of West Virginia

March 14, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2020

Dear Secretary of State Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2020, passed March 8, 2019, approved with the following objections:

My first objection to the Bill is contained in Item 45, page 34, line 2, which states:

“Teachers’ Retirement Savings Realized 09500 42,954,000”

The above appropriation includes funding above what is necessary as certified by the Consolidated Public Retirement Board. Therefore, I am reducing the appropriation by the amount of \$5,372,000 to \$37,582,000.

My second objection to the Bill is contained in Item 75, page 60, line 2, which states:

“Unclassified (R).....09900 5,837”

The above appropriation includes an indication of Reappropriation which is contradictory to the directive language included below the fund. Therefore, I am striking the “(R)”.

My third objection to the Bill is contained in Item 75, page 60, line 8 through line 10, which state:

OFFICE OF THE GOVERNOR

Warner
March 14, 2019
Page 2

“Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09900) at the close of the fiscal year 2019 is hereby reappropriated for expenditure during the fiscal year 2020.”

The appropriation for “Unclassified – Total” is not assigned to appropriation code “09900”, therefore I am striking “09900” in line 9.

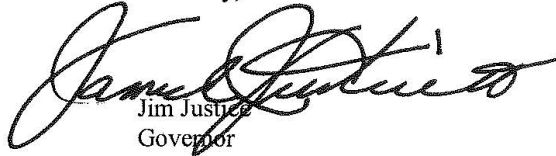
My fourth objection to the Bill is contained in Item 141, page 86, line 1, which states:

“Current Expenses.....13000 \$42,954,000

Due to the reduction of appropriation contained in my first objection, spending authority for this item is reduced to reflect the difference. Therefore, I am reducing the appropriation by the amount of \$5,372,000 to \$37,582,000.

For these reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2020

Sincerely,



Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

Veto Messages

Jim Justice
Governor of West Virginia

March 14, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 3148

Dear Secretary of State Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 3148. This supplemental takes fifty-three million dollars out of General Revenue and appropriates it to the Department of Health and Human Resources, Division of Human Services. WV DHHR already projects a Medicaid surplus balance for the Department of Health and Human Resources reaching approximately one hundred ninety million dollars for Fiscal Year 2020. I believe that there are other matters in our state that can benefit from the fifty-three million dollars in Fiscal Year 2019.

For these reasons, I disapprove and return Enrolled House Bill 3148.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill No. 147

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 147.

Enrolled Committee Substitute for Senate Bill No. 147 shifts \$1.00 of the solid waste assessment fee imposed by §22-16-4, currently \$3.50, to county and regional solid waste authorities. The \$1.00 per ton reduction in the assessment would affect the Landfill Closure Assistance Fund administered by Department of Environmental Protection, which is used to close landfills in an environmentally protective and sound manner and to pay ongoing maintenance costs on the closed landfills as they age. The annual reduction in this Fund is approximately \$2.1 million dollars.

Enrolled Community Substitute for Senate Bill 147 is concerning because the fee reduction to the Closure Fund will severely impair the DEP's ability to continue maintenance on the already closed landfills and to the ability to close the upcoming ones in a safe manner; posing a threat to the health and safety of our citizens. Putting public health at risk for West Virginians is a bad policy choice, and one that I cannot endorse.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 147.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Senate Bill 190

Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 190. The rule at issue in the bill makes only one substantive change, which is to allow both salaried and hourly classified services employees to be paid overtime when they have taken leave earlier in the work week.

The intent of the rule appears to be to avoid having employees lose annual leave that cannot be carried forward into the next calendar year. This issue is not unique to Division of Highways employees and has been addressed by this administration through an executive order that allowed Division of Corrections employees, many of whom worked mandatory overtime due to staffing shortages, to carry forward more than the limit of annual leave hours. If the inability of employees to use annual leave by the end of the calendar year is a systemic problem due to snow removal duties, a similar executive order could address the issue on a year-to-year basis.

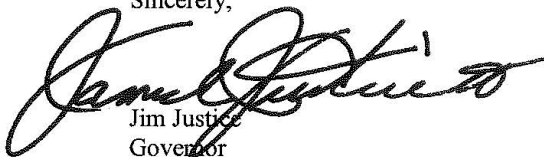
The other problem with the rule is that it fails to recognize the difference between employees entitled to overtime under the federal Fair Labor Standards Act (FLSA), and those employees that are exempt from the overtime requirements of the act. Employees that are exempt from FLSA are not entitled to earn overtime, although an employer can elect to pay those employees overtime. Employees who are exempt from FLSA are those who are employed in a "bona fide executive, administrative or professional capacity." *29 CFR 541.0(a)*. These types of positions are not typically involved with emergency response or public safety functions, therefore overtime for these employees would generally be unnecessary. By excluding these FLSA-exempt employees from eligibility to receive overtime, unnecessary costs to the State Road Fund are saved, allowing for those funds to instead be available for more roads projects.

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OFFICE OF THE GOVERNOR

For these reasons, I disapprove and return Enrolled Senate Bill 190.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice". The signature is written in a cursive, flowing style with a large initial "J".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 440

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill No. 440.

I applaud the Legislature for tackling the issue of hazing at our universities, however the language included in this bill is overly broad and encompasses numerous organizations outside of the higher education community. For example, the following broad language appearing in the definitions of the bill: "any organization whose members include students of an institution of higher education," could include organizations such as the West Virginia Legislature or the American Civil Liberties Union, if any of their members were enrolled in classes at an institution of higher education in the state.

I believe Enrolled Senate Bill 440 contains overly-general language that encompasses a greater number of organizations than intended. For this reason, I must disapprove and return Enrolled Senate Bill No. 440. However, I encourage the Legislature to revisit the issue in the next Regular Session.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill No. 487

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 487.

Enrolled Committee Substitute for Senate Bill No. 487 amends §55-7B-7a the Medical Professional Liability Act, which involves liability cases from injuries or deaths resulting from falls in a healthcare facility. SB 487 provides a *conclusive presumption* that “appropriate staffing was provided” in any legal action alleging inappropriate staffing if a health care facility or provider demonstrates compliance with minimum staffing requirements under West Virginia law. Furthermore, Enrolled Committee Substitute for Senate Bill 487 also provides a rebuttable presumption that adequate supervision of patients to prevents falls was provided if minimum staffing levels are met.

The presumptions created in Enrolled Committee Substitute for Senate Bill 487 are poor public policy because compliance with minimum staffing state regulations do not ensure adequate and competent care to meet the needs of West Virginia’s nursing home population. Quality of care, based on the needs of the patient and their care plan, must be considered, in addition to nurse staffing levels.

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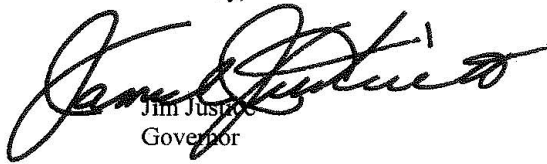
OFFICE OF THE GOVERNOR

Furthermore, West Virginia state nurse staffing levels are often lower than federal staffing regulations or Centers for Medicare & Medicaid Services (CMS) recommendations. Granting an irrefutable presumption for all nurse staffing litigation based solely on state nursing regulations could result in dismissing litigation based on the staffing levels recommended by federal regulations or CMS recommendations when the state staffing levels are lower than the federal standards.

Establishing a conclusive presumption that cannot be refuted for nurse staffing levels is not justified by merely meeting the minimum staffing levels as defined by state law without taking quality of care provided the residents into consideration. Caring for West Virginia's vulnerable elderly population is of the utmost importance and requires better.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 487.

Sincerely,



Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates



Jim Justice
 Governor of West Virginia
 March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
 Secretary of State
 Building 1, Suite 157-K
 State Capitol
 Charleston, WV 25305

Re: Enrolled Senate Bill 522

Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 522.

The purpose of the bill, while well-intentioned, is problematic because it represents a legislative encroachment into executive functions. The bill would have the county supervisor, with consultation of the county commission and the legislators representing that county to compile a list of secondary roads projects in the county and prioritize those projects.

Maintaining our state and secondary roads system, including assigning priority to particular projects, is without question an executive function. "The separation of powers provision of the State Constitution, which prohibits any one department of the State government from exercising the powers of the others, is not merely a suggestion; it is part of the fundamental law of the State, and as such, it must be strictly construed and closely followed." *State ex rel West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee*, 213 W.Va. 255 (2003). Much like the authority of presiding officers of both houses to appoint members to the Economic Development Grant Committee, which the court found to be a legislative assertion of post-enactment control over executive branch decisions, allowing sitting legislators to assume an executive role and assist in making decisions about which roads deserve attention and in what order certainly violates the separation of powers.

For these reasons, I disapprove and return Enrolled Senate Bill 522.

Sincerely,

Jim Justice
 Governor

cc: The Honorable Mitch Carmichael
 President of the Senate
 The Honorable Roger Hanshaw
 Speaker of the House of Delegates
 State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill No. 624

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 624.

Enrolled Committee Substitute for Senate Bill No. 624 provides an assessment option for county boards of education to use as an alternative to the currently contracted assessment in statewide contract with a vendor selected by a competitive bid process.

Enrolled Community Substitute for Senate Bill 624 is concerning because it directly conflicts with West Virginia Code §18-2E-5(d)(7) and would put the WV Board of Education in the untenable position of having to decide which statute to follow. WV Code §18-2E-5(d)(7) requires that "the comprehensive statewide student assessment adopted prior to the testing window of the 2017-2018 school year shall continue to be used for at least a total of four consecutive years." By allowing county boards of education to utilize an alternative assessment option during the period of time implicated in the statute for at least a four-year period of assessment consistency, the WV Board of Education would be violating their statutory mandate already in effect.

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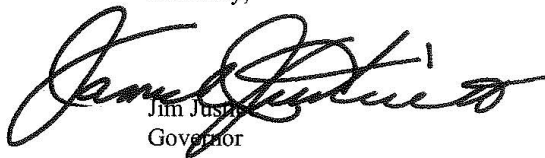
OFFICE OF THE GOVERNOR

Having a statutory conflict in place in the provision of statewide student assessment, would not only cause confusion between county boards of education but could encourage litigation between counties and the state in an attempt to address the conflict. Further, the statutory conflict could give rise to contractual litigation between the state and the current vendor of the statewide contract, who was chosen by a competitive bid process, and any other vendor able to provide an alternative assessment option.

Additionally, the West Virginia Department of Education recently received a letter from the United States Department of Education (USDE) advising that the ACT assessment was conditionally approved to be used as a locally selected assessment in lieu of the statewide assessment. The letter was accompanied by a specific list of items the WV Department of Education is required to submit to receive full USDE approval. Not only does the USDE's letter render SB624 unnecessary but given the clear set of instructions provided to the WV Department of Education, there is no need to add unnecessary statutory language that may work to impede on the WV Department of Education's ability to adhere to those instructions.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 624.

Sincerely,



Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 633

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 633.

Enrolled Senate Bill No. 633 allows for the WV Board of Physical Therapy to conduct criminal background checks on applicants for a license. Further, the bill allows for disqualification for licensure and prohibition from disqualification based on certain crimes if found as a result of the background check. It is these crimes and how they affect the issuance of a license, that is missing from the bill's title.

The bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). Specifically, there are nine subsections that are not reflected in the title of the bill and therefore does not provide the notice required of the bill's contents. The passage of this bill is very important to the operation of the WV Physical Therapy Board as it implements the multi-state compact that was approved by the legislature in 2018. Therefore, I ask that this bill be corrected and resubmitted to the legislature for approval.

For these reasons, I must disapprove and return Enrolled Senate Bill No. 633.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 676

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 676.

Enrolled Senate Bill No. 676 revises existing road classification categories currently contained on the Division of Highways digital road map. Division of Highways already creates and publishes a digital road map with road classifications very similar to these categories and therefore, this bill is unnecessary, and duplicative.

For these reasons, I must disapprove and return Enrolled Senate Bill No. 676.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2079

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2079, relating to medical cannabis.

The bill imposes excise taxes on growers, processors, and dispensaries of medical cannabis that favors wholly vertically integrated businesses. While the Legislature has authority to classify different businesses and to tax them differently, the classifications must be (1) reasonable, (2) based on pertinent and real differences, and (3) have as their object a purpose that is germane to the enabling legislation. *See United Fuel Gas Co. v. Battle*, 167 S.E.2d 890 (1969), *cert. denied*, *United Fuel Gas Co. v. Haden*, 396 U.S. 116 (1969). Applying this test, it is impossible to justify the classifications in the bill.

For this reason, I must disapprove and return Enrolled Committee Substitute for House Bill 2079. However, because I support the medical cannabis program for those West Virginians that need it, therefore I encourage the Legislature to address the constitutional issues above and present a bill for signature that treats all taxpayers that will be engaged in this industry in West Virginia fairly.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2363

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2363, which is intended to extend the Upper Kanawha Valley Resiliency and Revitalization Program until 2024 and which further requires an assessment by members of a revitalization council to “assess the option of utilizing the authority granted in W.Va. Code §18-5-11 of the Code to allow Kanawha County and Fayette County to jointly create or maintain schools that serve the Upper Kanawha Valley” and to “determine whether students in the Upper Kanawha Valley can receive their Constitutionally protected education in the Upper Kanawha Valley.”

Certain provisions of Enrolled Committee Substitute for House Bill 2363 attempt to encroach upon the authority of the West Virginia Board of Education, and the State Superintendent as its chief executive officer, to provide for the general supervision of public schools in West Virginia, which authority must be equitably exercised across the state without disparate treatment between districts.

For these reasons I must disapprove and return Enrolled Committee Substitute for House Bill 2363.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled House Bill No. 2412

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2412.

Enrolled House Bill No. 2412 amends §61-5B-1 to move statutes regarding prohibited acts in government procurement from Chapter 5A, Article 3 to Chapter 61, the chapter containing statutes outlining criminal acts. While the statute, when contained in Chapter 5A, applied to procurement officers contained in the WV Department of Administration's Purchasing Division, its application is not so clear when moved to Chapter 61, the criminal code. For example, the statute reads "no person purchasing or contracting for the purchase of commodities..." (§61-5B-2) could be broadly applied to anyone in a chain of people who are part of the buying and ordering process required in the purchasing of government goods.

Furthermore, the statute makes it a crime for a person to accept "*anything of value*" from a "business entity offering to sell, providing or contracting to sell...commodities." 'Anything of value' is too vague a term to give notice to a person that they are about to commit a crime. Without some monetary framework for this term, it would be unenforceable for prosecutors and would result in confusion and wasted resources in the attempt to prosecute these crimes.

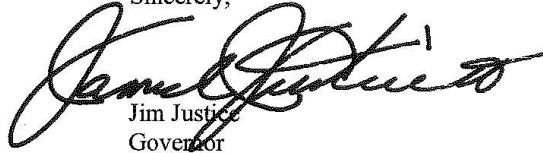
Creating this prohibition within the criminal chapter of the West Virginia Code requires the statute to give clear notice of who and what is in jeopardy of violation of this criminal offense. This statute does not rise to that level and cannot stand. I request that the Legislature address these issues and resubmit the bill in the future.

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OFFICE OF THE GOVERNOR

For these reasons, I must disapprove and return Enrolled House Bill No. 2412.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice". The signature is fluid and cursive, with a large initial "J".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates



Jim Justice
Governor of West Virginia
March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 2486

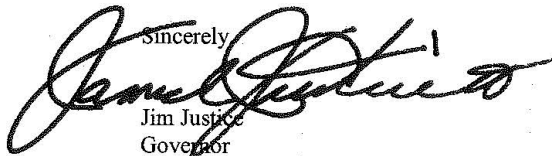
Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2486.

The intended purpose of Enrolled House Bill 2486 is to preclude certain prior criminal history from being the basis for a denial of a professional license. However, the bill is in conflict to some extent with W.Va. Code §30-1D-1, "Lynette's Law", which mandates certain boards conduct a criminal background check for applicants. Of the boards subject to the requirements in "Lynette's Law", only Board of Medicine and Board of Osteopathy are exempted from the language of Enrolled House Bill 2486. So, the Board of Dentistry, Board of Pharmacy, Board of Examiners for Registered Professional Nurses, Board of Examiners for Licensed Practical Nurses, Board of Optometry, Board of Veterinary Medicine, and Board of Psychology are left in the untenable position of requiring applicants to submit to a background check, yet precluding the Boards from acting on any prior criminal history unrelated to the practice being regulated by the Board. The Boards that would be subject to the conflicting statutes have promulgated rules governing evaluation of the criminal history in relation to the practice, which would be null and void by the passage of this bill.

Additionally, determination for whether the past criminal conduct of an applicant is related to the profession is vague and subjective, and could result in litigation for boards that issue an unfavorable decision on an applicant.

For these reasons, I disapprove and return Enrolled House Bill 2486.

Sincerely

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates
State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building I, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2503

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2674. This bill would require a petition alleging abuse or neglect of a child to name each parent, guardian, or custodian and to specifically state which are alleged to have abused or neglected the child, and would make provision for counsel to be provided in such hearings, among other things.

While I certainly appreciate the intent of this bill, the bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, the title provides that the bill requires "that notice be given by courts that a hearing required by subsection (a) of this section has been held." It is unclear to what subsection that title provision is meant to relate as the bill amends two different sections, neither of which specifically provides for a hearing under their respective subsections (a).

As a result of this flaw, I must disapprove and return Enrolled Committee Substitute for House Bill 2503, and would welcome a similar bill to be submitted in a subsequent legislative session to correct the error noted above.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled House Bill No. 2530

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2530.

Enrolled House Bill No. 2530 creates a voluntary certification process for drug and alcohol-free recovery residences. It provided for inspection standards, regulations, fees, criminal penalties, fines and rulemaking. In §16-56-2, the "certifying agency" is granted rulemaking authority, after consultation with WV Department of Health and Human Resources. 'Certifying agency' is undefined but is required to be under contract with DHHR.

Legislative rules under §29A-1-1 et seq. act with the force of law. An undefined "certifying agency" who acts as a contractor with DHHR could be a governmental agency but that is not a requirement of the bill. If the contract was awarded to a for profit business or even nonprofit corporation, how could they effectuate laws through the promulgation of rules. Constitutionally, the force of law cannot be promulgated by a private entity.

Although this bill had unanimous support and was with a well-intended purpose, this rulemaking issue would cause legal and constitutional conflicts that are untenable. I request that this bill be corrected of these issues and be submitted again for legislative approval.

For these reasons, I must disapprove and return Enrolled House Bill No. 2530.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill No. 2531

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 2531.

Enrolled Committee Substitute for House Bill No. 2531 allows additional health care professionals to provide counseling in medication-assisted treatment settings for substance use disorders. This bill serves an important purpose and is needed; however, it contains a severe technical flaw that renders it void.

The enrolled version of this bill omits subsection (f) through (s) of WV Code §16-5Y-5, with no evidence of strike-throughs. The bill's enrolled version eliminates 14 sections of current West Virginia Code. If approved, this bill would effectively delete current sections of West Virginia Code with no notice to the members of the legislature who voted for this bill.

For these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill No. 2531.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2579

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2579, which undoes historic tax policy in this State at the expense of the State of West Virginia.

Enrolled Committee Substitute for House Bill 2579 destroys the trust fund nature of collected consumers sales and service taxes, withheld employer withholding taxes and collected motor fuel excise taxes held in trust for the State by a business that is in bankruptcy, foreclosure or receivership; and eliminates the personal liability of a fiduciary for failing to remit collected trust fund taxes. The bill allows these public monies to be used for purely private purposes in violation of Article X, § 6 of the Constitution of West Virginia.

For these reasons I must disapprove and return Enrolled Committee Substitute for House Bill 2579.

Sincerely

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2661

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2661. The bill would permit a gas utility to petition the Public Service Commission for approval of requests for proposals containing proposed incentives for the drilling of new natural gas wells and/or increasing production from existing natural gas well to procure dependable supplies of natural gas to serve gas utility customers where such dependable, lower-priced supplies of natural gas are not readily available to serve those customers. The bill would also allow utilities to defer their actual expenditures attributable to the cost reasonably necessary to convert customers to a different source of energy in the event the Public Service Commission determines that abandoning gas services is in the public interest, subject only to Public Service Commission review of whether those costs are reasonably necessary to convert each customer and are not reflected in current base rates or have not been otherwise pursuant to filings.

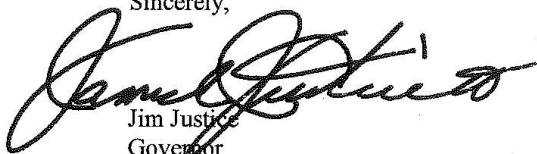
The bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, the title notes that a utility may make a request for incentivized drilling, but fails to note that the bill also requires the Public Service Commission to approve such request upon the sole finding that dependable, lower-priced supplies of natural gas are not available and that the winning proposal will be deemed to be the utility's reasonable cost to dependably serve at the lowest available price. The title also fails to note that the bill allows utilities to defer their expenditures for abandonment of service and conversion to another source until a future rate case or an adjustment filing, subject only to Public Service Commission review of whether those costs were reasonably necessary. Further, the bill unnecessarily constrains the Public Service Commission in its ratemaking authority and obstructs existing statutory provisions that protect natural gas customers from paying unreasonable rates.

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OFFICE OF THE GOVERNOR

For these reasons I must disapprove and return Enrolled Committee Substitute for House Bill 2661.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice". The signature is written in a cursive, flowing style with a large initial "J".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2673

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2673. This bill would reduce to 2.5% the severance tax rate on natural gas or oil for any natural gas produced from a well which produced an average between 5,000 and 60,000 cubic feet of gas and for any oil produced from any well which produced an average between one-half barrel and ten barrels per day, each calculated from the calendar year immediately preceding the beginning date of a given tax year. The bill also would direct the proceeds of this reduced 2.5% severance tax rate to an Oil and Gas Abandoned Well Plugging Fund, for use by the Department of Environmental Protection to plug abandoned oil and gas wells and reclaim property disturbed by the plugging.

The goal of providing additional needed funding to the Department of Environmental Protection to plug abandoned oil and gas wells and reclaim property disturbed by the plugging is a goal that needs to be pursued and achieved. However, this needed funding should come from general revenues generated by the current severance tax rate, among other sources, rather than from significantly diminished revenues generated by a 50% tax rate cut, which, under the bill, effectively becomes a 100% tax rate cut when \$4 million is in the Fund. I believe it would be to the detriment of the State and to the many causes to which general revenues are put to allow for such an increase in the amount of natural gas and oil produced with an effective tax rate of 0% once \$4 million has been deposited to the Fund, in order to direct funding to a purpose more efficiently funded from general revenues.

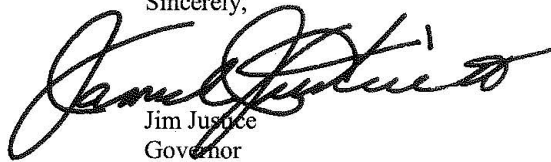
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OFFICE OF THE GOVERNOR

Further, there is potential conflict regarding the dedication of the severance tax proceeds from the privilege of producing oil and natural gas. Currently, 10% of the severance tax attributable to the severance tax on oil and natural gas is dedicated for the use and benefit of the counties and municipalities of the State, and of that amount 75% is to go to the oil and natural gas producing counties. As enacted, this bill would affect the amount available for these distributions needed to provide funds to counties and municipalities throughout the State.

For the reasons provided above, I disapprove and return Enrolled Committee Substitute for House Bill 2673.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice". The signature is fluid and cursive, with a large initial "J".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2674

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2674. This bill purports to establish a student loan repayment program for mental health providers residing in West Virginia and practicing in underserved areas of the state, and to allow two nonresident students per year, in each cohort, to attend each of the state's medical schools at the in-state tuition rate.

The aim of this bill is laudable: to get mental health providers into practice in underserved areas throughout the state. The bill, however, is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, the title notes that the bill authorizes legislative rules to be promulgated, but the bill authorizes the Commissioner of the Higher Education Policy Commission to promulgate rules.

As a result of this flaw, I disapprove and return Enrolled Committee Substitute for House Bill 2674, but welcome a similar bill in a subsequent legislative session to achieve its purposes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2703

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2703. This bill would provide an increase in the allowable refund of up to 1% for tax collected for fuels lost to evaporation.

Although I appreciate the intent of this bill, it is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, the bill amends W.Va. Code §11-14C-30, but the title states that the bill amends W.Va. Code §11-14-10.

As a result of this flaw, I disapprove and return Enrolled Committee Substitute for House Bill 2703, but would welcome a similar bill correcting the error noted above in a subsequent legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2734

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2734, which is intended to provide business and occupation tax credit and corporation net income tax credit to certain public service businesses for reducing sewer utility rates for low-income residential customers.

Enrolled Committee Substitute for House Bill 2734 is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 1919 S.E.2d 610 (requiring bill titles to provide notice of a bill's content). Specifically, the title does not mention that credits are allowable for taxable years beginning on and after January 1, 2019 or that the bill defines certain terms. Additionally, there are other technical flaws in the bill. The bill includes erroneous code references. The language in §11-13F-3(a) and (b) in the bill erroneously refers to §24-13-1 et seq. when the correct reference is to §11-13-1 et seq. Additionally, within the bill, §11-13F-2(a)(2) and §11-13F-3(a) refer to §24-2A-3 when they should refer to §24-2A-2.

For these reasons I must disapprove and return Enrolled Committee Substitute for House Bill 2734. However, I support the underlying policy in the bill, and encourage the Legislature to present a bill for signature that addresses the technical deficiencies mentioned above.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2807

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2807 the purposes of which is to allow electing small business corporations (S corporations) and limited liability companies that are financial organizations to claim certain decreasing modifications when determining their West Virginia adjusted federal taxable income that they could have claimed had they been subject to the West Virginia corporation net income tax.

Enrolled Committee Substitute for House Bill 2807 includes numerous technical flaws. For example, while attempting to update W. Va. Code §11-21-17a to incorporate the current way of citing to the West Virginia Code, a technical error was made in the bill -- the bill changed references to subsections (b), (c) and (d) of W. Va. Code §11-21-12, to reference §11-21-12b, §11-21-12c, and §11-21-12d, thereby changing the meaning of Bill §11-21-17a. The reference to the definition of "financial organizations" is also incorrect, as are other Code sections referenced in the bill.

For these reasons I must disapprove and return Enrolled Committee Substitute for House Bill 2807, but welcome a similar bill to be introduced in a subsequent legislative session to correct the issues noted above.

Sincerely,

A handwritten signature in black ink that reads "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
 Governor of West Virginia
 March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
 Secretary of State
 Suite 157-K
 State Capitol
 Charleston, WV 25305

Re: Enrolled House Bill 2828

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2828, which is intended to promote, through tax incentives, investment and business growth in the state's low-income communities.

While Enrolled House Bill 2828 certainly has laudable purposes, it contains numerous technical flaws. For example, the title of the Bill is materially defective because it (1) does not state that the Bill creates an insurance premiums tax credit for qualified community development entities making qualified equity investments; (2) does not refer to the 60-million-dollar limit on certification for qualified equity investments; and (3) does not say that under certain circumstances the credit can be recaptured by the Insurance Commissioner. Within new article 31-15D in the Bill there are several references to 26 U.S.C. § 45D, as amended. This is an unconstitutional delegation of the Legislature's authority to the United States Congress. *See* Syl. Pt. 1, *State v. Grinstead*, 157 W. Va. 1001, 206 S.E.2d 912 (1974). Additionally, while the Bill allows credit for qualified community development entities making qualified investments, only insurance companies pay the insurance premiums tax to the Insurance Commissioner, which makes the credit impossible to administer as written.

For these reasons I must disapprove and return Enrolled House Bill 2828, but welcome a similar bill in a subsequent legislative session, correcting the technical errors noted above.

Sincerely,

Jim Justice
 Governor

cc: The Hon. Roger Hanshaw
 Speaker of the House of Delegates
 The Hon. Mitch Carmichael
 President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2933

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2933. This bill purports to modify the criminal penalties imposed on a parent, guardian, or custodian for child abuse resulting in injury and child abuse or neglect creating risk of injury.

Although I support the intent of the bill, Enrolled Committee Substitute for House Bill 2933 is technically flawed because either its title is defective, *see State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents), or the bill inadvertently makes ambiguous or ineffective certain limitations on penalties for conviction under W.Va. Code §61-8D-4. Specifically, the bill repeals language creating a "misdemeanor" for certain offenses, but fails to repeal or amend subsection (f) which provides certain limitations on the penalties to be assessed against those "convicted of a misdemeanor." The title does not provide notice of the repeal of these limitations (i.e., that one may now be required to register pursuant to the requirements of W.Va. Code §15-13-1 et seq. or, solely by virtue of conviction under the section, have their custody, visitation, or parental rights automatically restricted), or the bill makes ambiguous or ineffective these certain limitations, and, therefore, is technically flawed.

As a result of the flaws noted above, I disapprove and return Enrolled Committee Substitute 2933, but welcome a similar bill in a subsequent legislative session, correcting or clarifying this issue.

Sincerely

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 2992

Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2992.

Two years ago, I vetoed HB 2446, a bill with the same language. This bill is overly broad in its application, requiring "contact information of each staff member, including office location." There is no exception for employees who are engaged in undercover law enforcement operations, for employees whose office location is their personal residence, or for employees whose safety would be at risk by publishing their office location.

I understand the importance of providing the public with readily accessible information about state and local government, as intended by this bill. However, the bill should provide some flexibility for those employees to protect their safety, the safety of their coworkers or the integrity of law enforcement operations. I encourage the Legislature to revisit this bill and present it for signature with the exemptions necessary to protect certain employees.

For these reasons, I disapprove and return Enrolled House Bill 2992.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia
March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 3024

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 3024. This bill purports to create a pilot program to encourage utility infrastructure development to industrial sites throughout West Virginia.

Although the bill's purpose is certainly important and encouraged, the bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, the bill requires the West Virginia Development Office to certify sites as having the potential for industrial development without adequate public utility services from one or more public utilities regulated by the Public Service Commission; requires the Public Service Commission to receive and review for approval applications for multi-year comprehensive plans for infrastructure development to construct public utility infrastructure, which applications are in lieu of a proceeding under W.Va. Code §24-2-11; and requires an applicant for approval of a site as an industrial development site to publish the anticipated rates and any rate increase under the proposal as a Class I legal advertisement in compliance with the provisions of W.Va. Code §59-3-1 et seq., none of which is adequately noticed in the title, which only provides an overly general and vague description of the pilot program authorized under the bill.

As a result of these flaws, I disapprove and return Enrolled Committee Substitute for House Bill 3024, but welcome a similar bill in a subsequent legislative session to correct the issues described above.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Hon. Mitch Carmichael
President of the Senate
The Hon. Roger Hanshaw
Speaker of the House of Delegates

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 3044

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 3044, which is intended to require the Commissioner of Highways to develop a formula for the effective and efficient allocation of state and federal road funds among the districts and counties of the state, which formula must include factors including county population, county population growth projections, total lane miles, heavy truck use, and bridge numbers and bridge conditions in a given county.

The West Virginia Division of Highways is a maintenance organization first and foremost, dedicated to keeping the roads and highways of this state in good working order and repair. While a formula may prove useful in predicting where federal and state road money should be spent over a long period, I believe being required to follow a formula for the actual dollar allocation would limit the Division's ability to dedicate funds to maintenance projects where and when needed around the state.

For these reasons I must disapprove and return Enrolled House Bill 3044.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

All business of the sixty-day session now being concluded,

Senator Weld, from the select committee to notify His Excellency, the Governor, that the Senate is ready to adjourn *sine die*, returned to the chamber and was recognized by the President. Senator Weld then reported this mission accomplished.

Thereupon,

On motion of Senator Takubo, at 12:03 a.m., the Senate adjourned *sine die*.
