

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2020
THIRTY-FIRST DAY

Charleston, West Virginia, Friday, February 7, 2020

The Senate met at 11:07 a.m.

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

Prayer was offered by Pastor Bill Tanzey, Charleston, West Virginia.

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

Pending the reading of the Journal of Thursday, February 6, 2020,

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

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

The Clerk presented the following communication from a state agency as required by the provisions of law:

Special Investigations, Commission on (§4-5-2)

On motion of Senator Takubo, at 11:15 a.m., the Senate recessed to permit Matt Porter to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

The Senate reconvened at 11:16 a.m. and proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 4352—A Bill to amend and reenact §29-3B-4 and §29-3B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-3C-4 of said code; and to amend and reenact §29-3D-2 and §29-3D-6 of said code, all relating to licenses issued by the Fire Marshal; removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making; creating a rational nexus requirement between prior criminal conduct and initial licensure or certification in decision making; providing criteria for the

State Fire Marshal as licensing or certification authority to determine whether a criminal conviction has a rational nexus to an occupation; limiting licensure disqualification; authorizing persons to petition the State Fire Marshal as to whether a person's criminal records precludes licensure; and reducing the number of necessary hours as a qualification for licensure as a journeyman sprinkler fitter or sprinkler fitter in training.

Referred to the Committee on Government Organization.

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

Eng. House Bill 4380—A Bill to amend and reenact §4-10-10 of the Code of West Virginia, 1931, as amended, relating to updating the regulatory board review schedule.

Referred to the Committee on Government Organization.

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 4393, Relating to making suffocation and asphyxiation crimes.

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

Eng. Com. Sub. for House Bill 4509—A Bill to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating to transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; removing the residency requirements pertaining to counties; removing the work substitution or qualification to serve on the board; specifying the powers and duties of the chairperson; setting forth the process for selecting a vice chairperson; specifying the powers and duties of the vice chairperson; clarifying how a vacancy occurs on the board; creating a temporary or substitute board member list; and clarifying how moneys for the board should be appropriated.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration

Senate Bill 38, Requiring schools provide elective course on Hebrew Scriptures or Bible.

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

Com. Sub. for Senate Bill 38 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9a, relating to allowing county boards of education to offer students in grade nine or above an elective social studies course on Hebrew Scriptures, Old Testament of the Bible, New Testament of the Bible, or Hebrew Scriptures and New Testament of the Bible; setting forth the purposes of the course; permitting students to use a translation of their choice; requiring county board of education to submit to the West Virginia Department of Education the course standards, including

the teacher qualifications and required professional development; and imposing requirements applicable to the course, the county board of education, and the State Board of Education.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The bill (Com. Sub. for S. B. 38), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Senate Bill 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator.

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

Com. Sub. for Senate Bill 163 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to municipal or county taxation of hotel rooms booked through a marketplace facilitator; defining terms; providing for collection and remittance of the tax imposed by any municipality or county; requiring the marketplace facilitator to separately state the tax on all bills, invoices, accounts, books of account, and records relating to occupancy or use of a hotel room; and deeming all taxes collected be held in trust by the marketplace facilitator until remitted.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

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

Your Committee on Finance has had under consideration

Senate Bill 180, Relating to Second Chance Driver's License Program.

And,

Senate Bill 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Education has had under consideration

Com. Sub. for Senate Bill 230, Requiring State Board of Education provide routine education in suicide prevention.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 284, Creating WV Health Care Continuity Act.

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

Com. Sub. for Senate Bill 284 (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, and §33-53-12, all relating to West Virginia Health Care Continuity Act; including provisions for the creation of a State Commission on Health Care Continuity, when the act becomes effective; the establishment of the West Virginia Patient Protection Pool risk-sharing program, and the involvement of the Joint Committee on Government and Finance; providing limitations on preexisting condition exclusions for health benefit plans; requiring rulemaking; requiring fairness in cost sharing and ratemaking; and including a conflict of laws provision.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill (Com. Sub. for S. B. 284), under the original double committee reference, was then referred to the Committee on Health and Human Resources.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 478, Creating WV Motorsports Entertainment Complex Investment Act.

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

Com. Sub. for Senate Bill 478 (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-29-1, §11-29-2, §11-29-3, §11-29-4, and §11-29-5, all relating to creating the West Virginia Motorsports Entertainment Complex Investment Act; and creating a sales and use tax exemption for qualified companies that make a capital investment in any motorsport entertainment complex in the state.

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

Respectfully submitted,

Chandler Swope,
Chair.

The bill (Com. Sub. for S. B. 478), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 490 (originating in the Committee on Agriculture and Rural Development), Relating to protection of animal and crop facilities.

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

Com. Sub. for Com. Sub. for Senate Bill 490 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3B-7, relating to criminal offenses against agricultural facilities; defining terms; describing prohibited acts; establishing criminal penalties; authorizing double damages for damage caused to agricultural facilities and equipment in the course of willful trespass; and allowing injunctive relief.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts.

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

Com. Sub. for Senate Bill 571 (originating in the Committee on Finance)—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, in the amount of \$20,000,000 from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund, and making a supplementary appropriation of public moneys out of the Treasury from the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2020, organization 0221.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 583, Creating program to further development of renewable energy resources.

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

Com. Sub. for Senate Bill 583 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-10, relating to creating a program to further the development of renewable energy resources and renewable energy facilities for solar energy by modifying the powers and duties of the Public Service Commission; providing for legislative findings and declarations; providing for definitions; providing for an application process and program for multiyear comprehensive renewable energy facilities for electric utilities, as defined, to plan, design, construct, purchase, own, and operate renewable energy-generating facilities, energy-storage resources, or both; providing for commission review and approval of said programs; allowing cost recovery for said programs; providing for requirements for said programs; providing for application requirements and contents in lieu of applications for certificates of public convenience and necessity; providing for public notice at the direction of the commission for anticipated rates and rate increases in interested counties; providing for a hearing on applications within 90 days of notice; defining circumstances when a hearing can be waived for lack of opposition; defining a time period of 150 days within which the commission shall issue a final order after the application date; requiring the commission to find the programs as in the public interest; requiring the commission, after notice and hearing, to approve applications and allow

cost recovery for just and reasonable expenditures; establishing accounting methods, practices, rates of return, calculations, dates, and procedures relevant for cost recovery; requiring a utility to place in effect commission-approved rates that include cost recovery with certain defined items; defining “concurrent cost recovery”; requiring yearly application filings by the utility with the commission regarding cost recovery; providing for an effective date on passage; and providing for a sunset date.

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

Respectfully submitted,

Randy E. Smith,
Chair.

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

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 641, Allowing WVCHIP flexibility in rate setting.

Senate Bill 647, Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders.

And,

Senate Bill 664, Adding physician’s assistant to list of medical professionals capable of determining if individual lacks capacity.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 653, Increasing number of magistrates in Putnam County.

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

Com. Sub. for Senate Bill 653 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-1-2 and §50-1-6 of the Code of West Virginia, 1931, as amended, relating

generally to magistrate courts; establishing the number of magistrates to serve in each county of the state; increasing the number of magistrates to serve in certain counties beginning on January 1, 2021; and providing for the initial filling of vacancies in newly created magisterial offices.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 653), under the original double committee reference, was then referred to the Committee on Finance.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 655, Relating to valuation of natural resources land property.

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

Respectfully submitted,

Randy E. Smith,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 662, Removing restrictions on fiduciary commissioners.

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

Com. Sub. for Senate Bill 662 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §44-3-1 of the Code of West Virginia, 1931, as amended, relating to removing language restricting more than two fiduciary commissioners being from the same political party.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 674, Permitting DOH purchase hardware items and equipment from local seller.

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

Com. Sub. for Senate Bill 674 (originating in the Committee on Government Organization)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-56, relating to permitting the Commissioner of the Division of Highways to purchase hardware items and equipment from a local seller rather than the holder of a state contract if the cost of the item or equipment is less than the cost from the holder of the state contract.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2602, Including possession of known stolen property in the offense of receiving or transferring stolen property.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2924, Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4141, Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4179, Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the fifth order of business.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

Senate Bill 312, Relating to child protective caseworkers.

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

Com. Sub. for Senate Bill 312 (originating in the Select Committee on Children and Families)—A Bill to amend the Code of West Virginia, 1931, as amended, to amend and reenact §30-30-16 of said code; to amend and reenact §30-30-18 to amend said code; to amend said code by adding thereto a new section, designated §30-30-30, all relating to provisional licensure requirements for social workers; creating licensure exception for Bureau for Children and Families service workers; and creating of registration process for service workers employed by the Bureau of Children and Families.

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

Respectfully submitted,

Tom Takubo,
Chair.

The bill (Com. Sub. for S. B. 312), under the original double committee reference, was then referred to the Committee on Health and Human Resources.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

Eng. Com. Sub. for House Bill 4129, Relating to adoption.

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

Respectfully submitted,

Tom Takubo,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senators Cline, Boley, Blair, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Sypolt, and Takubo:

Senate Bill 726—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5G-1 and §18-5G-2, all relating to enacting the Commitment to Eliminating Common Core, Ensuring High-Quality Academic Standards, and Raising the Bar for Civic Literacy Act; setting forth the functions, mission, and goals of West Virginia's k-12 education system; providing findings; and requiring the State Board of Education to comprehensively review West Virginia's k-12 academic standards and provide recommended revisions.

Referred to the Committee on Education.

By Senators Clements, Ihlenfeld, Maroney, and Romano:

Senate Bill 727—A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended, relating to disbursement of the funds in the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund for highway road repair; providing that money from the fund is to be expended within the district where gas field and horizontal drilling waste is deposited; and updating grammatical style throughout the section.

Referred to the Committee on Transportation and Infrastructure.

By Senator Trump:

Senate Bill 728—A Bill to amend and reenact §7-1-3n of the Code of West Virginia, 1931, as amended, relating to exempting all property used for agricultural purposes from county property maintenance codes and ordinances; and making such codes unenforceable.

Referred to the Committee on Government Organization.

By Senators Mann, Azinger, Jeffries, Romano, and Weld:

Senate Bill 729—A Bill to amend and reenact §7-14D-14 of the Code of West Virginia, 1931, as amended, relating to awards and benefits for disability under the Deputy Sheriff Retirement Act.

Referred to the Committee on Pensions; and then to the Committee on Finance.

By Senator Maynard:

Senate Bill 730—A Bill to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by adding thereto a new section, designated §18B-4-5b, all relating to regulation or restriction of the carrying of a concealed pistol or revolver by a person who holds a current license to carry a concealed deadly weapon; authorizing regulation or restriction on the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education; eliminating authority of the Higher Education Policy Commission, the Council for Community and Technical College Education, and the institutional boards of governors to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education; and designating these amendments as the Campus Self Defense Act.

Referred to the Committee on the Judiciary.

By Senator Smith:

Senate Bill 731—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to limiting the two percent severance tax break on steam coal to the first six million tons of production per operator per year.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Finance.

By Senator Trump:

Senate Bill 732—A Bill to amend and reenact §29-21-2 of the Code of West Virginia, 1931, as amended, relating to authorizing the payment of fees and reimbursement of expenses of attorneys who participate on court teams or advisory bodies of specialty courts established by the Supreme Court of Appeals.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

By Senator Trump:

Senate Bill 733—A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, as amended, relating to the criteria for political party status; and allowing a group of affiliated voters to become a recognized political party if the group's candidate receives at least one percent of the votes statewide in an election for either President or Governor.

Referred to the Committee on the Judiciary.

By Senator Clements:

Senate Bill 734—A Bill to amend and reenact §17-2A-17 of the Code of West Virginia, 1931, as amended, relating to clarifying the powers and duties of the Division of Highways in acquiring property for state road purposes to include depth as well as width; and updating antiquated language.

Referred to the Committee on Transportation and Infrastructure.

By Senator Takubo:

Senate Bill 735—A Bill to amend and reenact §11-17-3 and §11-17-4b of the Code of West Virginia, 1931, as amended, all relating to excise tax on tobacco products; increasing excise tax levied and imposed on sale of cigarettes; and increasing excise tax levied and imposed on sale of e-cigarette liquid.

Referred to the Committee on Finance.

By Senator Maynard:

Senate Bill 736—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to public service districts' laying of water lines, sewer lines, utilities, or pipelines on state rights-of-way; limiting the onsite time required supervision by a state engineer; and requiring payment and performance bonds to cover a reasonable length of time for defects to be discovered.

Referred to the Committee on Transportation and Infrastructure.

By Senator Azinger:

Senate Bill 737—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §21-11-21 and §21-11-22, all relating to requiring contractors performing work for government contracts on computers use software to verify the hours the contractor worked on the computer; providing that the automatic billing software applies for any contract over \$100,000; defining "executive agency" as any state agency; providing required aspects of automatic billing verification software; providing that contracts over \$1 million, when meeting certain conditions, are required to verify hours worked on a computer; requiring the Department of Administration provide reports relating to contracts over budget; providing that the Department of Administration will request information relating to contracts performed; providing for the contents of the required report; providing that the required report will be published on the Department of Administration's website and given to the Joint Committee on Government and Finance; providing dates for receiving required information to complete the report; providing for limitations relating to continued payments for certain contracts; providing that hours worked on a computer under certain circumstances must be verified before receiving payment; providing that a contractor generating data cannot charge an executive agency for access to or retrieval of the data; and providing for exemptions from the requirements.

Referred to the Committee on Government Organization.

Senators Boley, Carmichael (Mr. President), Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel offered the following resolution:

Senate Concurrent Resolution 27—Requesting the Joint Committee on Government and Finance to study ways to make the State Capitol building more handicap accessible.

Whereas, For many years, the Legislature has attempted to assure the expansion of access to facilities, services, and programs to the handicapped as sound public policy; and

Whereas, There still exists ways to make the State Capitol more handicap accessible; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study ways to make the State Capitol building more handicap accessible; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, 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.

Which, under the rules, lies over one day.

Senator Maynard offered the following resolution:

Senate Concurrent Resolution 28—Requesting the Division of Highways name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek in Wayne County, the “Curtis ‘Pap’ and Millie ‘Mammie’ Asbury Bridge”.

Whereas, Curtis Asbury was born on September 24, 1917, in Wayne, West Virginia, and his devoted wife, Millie Ferguson, was born on April 24, 1924. They were married in 1939; and

Whereas, Curtis and Millie Asbury established, owned, and operated Asbury’s Grocery, located at the entrance to Cabwaylingo Park Road for 52 years. The grocery store became a vital resource for community members. For five decades, the store not only provided necessary food and other goods but was also a meeting place for community members to gather and discuss everything from politics to family life. The bus stop was outside and when the school children would go inside the store they would be met with a smile, a hug, and a piece of fruit or candy; and

Whereas, Almost every person in the community of Dunlow, West Virginia, has been touched by Curtis and Millie’s kindness and generosity. The love they both had for their community was displayed by their hardworking, gentle, and giving spirits. They were devoted to making their small community a better place to live by always extending a helping hand, providing jobs, caring for the elderly, and encouraging and guiding the youth. They helped develop and organize their area by creating local churches, directing Sunday school classes, and working to fulfill the needs of the entire community. They treated everyone as their own family and were lovingly referred to as everyone’s “Mammie” and “Pap”; and

Whereas, It is fitting that an enduring memorial be established to commemorate Curtis and Millie Asbury and their contributions to their community and our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, in Wayne County, the "Curtis 'Pap' and Mille 'Mammie' Asbury 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 "Curtis 'Pap' and Mille 'Mammie' Asbury 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.

Which, under the rules, lies over one day.

Senator Sybolt offered the following resolution:

Senate Concurrent Resolution 29—Requesting the United States Drug Enforcement Administration and the United States Department of Agriculture to consider promulgating regulations authorizing a state that has been granted primary regulatory authority over the production of hemp in the state to take custody of cannabis plants to lower the tetrahydrocannabinol concentration of processed hemp.

Whereas, The Legislature is requesting the United States Drug Enforcement Administration and the United States Department of Agriculture to consider promulgating regulations authorizing a state that has been granted primary regulatory authority over the production of hemp in the state to take custody of cannabis sativa L. plants having a delta-9 tetrahydrocannabinol concentration on a dry weight basis which exceeds 0.3 percent but is less than 1.0 percent, for the purpose of applying technology and techniques to lower the tetrahydrocannabinol concentration of processed hemp to 0.3 percent or less; and

Whereas, Hemp is defined as the plant cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis; and

Whereas, A cannabis sativa L. plant having a THC concentration of more than 0.3 percent constitutes marijuana, a Schedule I controlled substance, and is subject to enforcement by the United States Drug Enforcement Administration; and

Whereas, The Interim Final Rule entitled, "Establishment of a Domestic Hemp Production Program", promulgated by the Agricultural Marketing Service of the United States Department of Agriculture on October 31, 2019, requires disposal of cannabis sativa L. plants having a THC concentration of greater than 0.3 percent, and does not expressly provide for remediation of such plants to lower the THC concentration of processed hemp to 0.3 percent or less; and

Whereas, The West Virginia Department of Agriculture is required to comply with federal requirements and restrictions pertaining to hemp and has sought primary regulatory authority over the production of hemp in this state; and

Whereas, There exists technology and techniques capable of lowering THC concentration of processed hemp to 0.3 percent or less; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the United States Drug Enforcement Administration and the United States Department of Agriculture to consider promulgating regulations authorizing a state that has been granted primary regulatory authority over the production of hemp in the state to take custody of cannabis plants to lower the tetrahydrocannabinol concentration of processed hemp; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the United States Drug Enforcement Administration and the United States Department of Agriculture, requesting their cooperation.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 23, Requesting study of State Police's increased duties and responsibilities.

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

Senate Concurrent Resolution 24, Fire Chief Lee Thomas Memorial Bridge.

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

Senate Concurrent Resolution 25, Requesting study on impact of future electromagnetic pulse catastrophe.

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

Senate Concurrent Resolution 26, Urging US Congress reopen public lands.

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

Senate Resolution 34, Designating February 7, 2020, as Dental Hygienists Day.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 34 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:31 a.m., the Senate recessed to present Senate Resolution 34.

The Senate reconvened at 11:35 a.m. and proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 136, Prohibiting certain misleading lawsuit advertising practices.

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

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

The nays were: Lindsay—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 S. B. 136) 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 Senate Bill 136—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1, §47-28-2, §47-28-3, §47-28-4, and §47-28-5, all relating to prohibiting certain misleading lawsuit advertising practices; providing civil and criminal penalties for violations of this article; providing for certain disclosures and warnings in lawsuit advertising for the protection of patients; imposing criminal penalties; and clarifying that the Supreme Court retains authority to regulate the practice of law.

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

Eng. Com. Sub. for Senate Bill 138, Incentives for consolidating local governments.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, 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. 138) 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 Senate Bill 142, Expanding Coyote Control Program through voluntary assessment on breeding cows.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, 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. 142) passed with its title.

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

Eng. Senate Bill 203, Allowing certain deductions from personal income tax refunds.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, 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. S. B. 203) 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 Senate Bill 522, Relating to compensation awards to crime victims .

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

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

Palumbo, Pitsenbarger, 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. 522) 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 Senate Bill 615, Declaring certain claims against state as moral obligations of state.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, 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. 615) 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, 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. 615) 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 Senate Bill 623, Allowing noncitizen of US be eligible for teaching certificate.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Facemire and Hardesty—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 623) 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, Clements, Cline, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Facemire and Hardesty—2.

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. 623) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons.

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

Com. Sub. for Senate Bill 97, Allowing senior judge to continue receiving per diem compensation beyond annual salary of sitting judge due to delay by Governor in filling vacancy.

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

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

Com. Sub. for Senate Bill 131, Creating Tim Tebow Act.

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

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

Com. Sub. for Senate Bill 195, Updating powers of personal representatives of deceased person's estate.

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

Senate Bill 202, Allowing one member of PSD board to be county commissioner.

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

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

Com. Sub. for Senate Bill 208, Protecting consumers from unfair pricing practices during state of emergency.

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

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

Senate Bill 266, Clarifying and updating language regarding Fairmont State alumni license plates.

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

Com. Sub. for Com. Sub. for Senate Bill 275, Creating Intermediate Court of Appeals.

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

On motion of Senator Ihlenfeld, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page thirty-five, section sixteen, after line forty-five, by inserting the following:

“CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 5. REVIEW OF COMMISSION'S ACTION.

§24-5-1. Review of final orders of commission.

Any party feeling aggrieved by the entry of a final order by the commission, affecting him or it, may present a petition in writing to the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals, or to a judge thereof in vacation, within thirty days after the entry of such order, praying for the suspension of such final order. The applicant shall deliver a copy of such petition to the secretary of the commission on or before the date the same is presented to the court or the judge, and it shall be the duty of the secretary promptly to file with the clerk of said court all papers, documents, evidence and other records constituting the complete record in the case, or certified copies thereof, as were before the commission at the time of the entry of the order from which the appeal is taken. The court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement of the parties, shall not be held sooner than five days after its

presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission, so that the commission may be represented at such hearing by one or more of its members or by counsel. If the court or the judge after such hearing be of the opinion that a suspending order should issue, the court or the judge may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall decide the matter in controversy as may seem to be just and right.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-5. Judicial review.

Any individual adversely affected by any order of commitment entered by the circuit court under this article may seek review thereof by appeal to the state ~~Supreme Court of Appeals~~ Intermediate Court of Appeals and jurisdiction is hereby conferred upon such court to hear and entertain such appeals upon application made therefor in the manner and within the time provided by law for civil appeals generally.

This section shall not be construed to in any way limit or precondition the right to seek release of such individual by habeas corpus.”;

On page thirty-eight, section one, after line nine, by inserting the following:

“CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-102. Procedure for appealing decisions.

Cases under this chapter, if tried in any inferior court, may be reviewed by writ of error or appeal to the circuit court, and if tried or reviewed in a circuit court, by writ of error or appeal to the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals.

§49-4-710. Waiver and transfer of jurisdiction.

(a) Upon written motion of the prosecuting attorney filed at least eight days prior to the adjudicatory hearing and with reasonable notice to the juvenile, his or her counsel, and his or her parents, guardians or custodians, the court shall conduct a hearing to determine if juvenile jurisdiction should or must be waived and the proceeding transferred to the criminal jurisdiction of the court. Any motion filed in accordance with this section is to state, with particularity, the grounds for the requested transfer, including the grounds relied upon as set forth in subsection (d), (e), (f) or (g) of this section, and the burden is upon the state to establish the grounds by clear and convincing evidence. Any hearing held under this section is to be held within seven days of the filing of the motion for transfer unless it is continued for good cause.

(b) No inquiry relative to admission or denial of the allegations of the charge or the demand for jury trial may be made by or before the court until the court has determined whether the proceeding is to be transferred to criminal jurisdiction.

(c) The court shall transfer a juvenile proceeding to criminal jurisdiction if a juvenile who has attained the age of fourteen years makes a demand on the record to be transferred to the criminal jurisdiction of the court. The case may then be referred to magistrate or circuit court for further proceedings, subject to the court's jurisdiction.

(d) The court shall transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile is at least fourteen years of age and has committed the crime of treason under §61-1-1 of this code; the crime of murder under sections §61-2-1, §61-2-2, and §61-2-3 of this code; the crime of robbery involving the use or presenting of firearms or other deadly weapons under §61-2-12 of this code; the crime of kidnapping under §61-2-14a of this code; the crime of first degree arson under §61-2-1 of this code; or the crime of sexual assault in the first degree under section §61-8b-3 of this code;

(2) The juvenile is at least fourteen years of age and has committed an offense of violence to the person which would be a felony if the juvenile was an adult. However, the juvenile has been previously adjudged delinquent for the commission of an offense of violence to the person which would be a felony if the juvenile was an adult; or

(3) The juvenile is at least fourteen years of age and has committed an offense which would be a felony if the juvenile was an adult. However, the juvenile has been twice previously adjudged delinquent for the commission of an offense which would be a felony if the juvenile was an adult.

(e) The court may transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (1), subsection (d) of this section, but who is younger than fourteen years of age.

(f) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (2) or (3), subsection (d) of this section, but who is younger than fourteen years of age.

(g) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile, who is at least fourteen years of age, has committed an offense of violence to a person which would be a felony if the juvenile was an adult;

(2) The juvenile, who is at least fourteen years of age, has committed an offense which would be a felony if the juvenile was an adult. However, the juvenile has been previously adjudged delinquent for the commission of a crime which would be a felony if the juvenile was an adult;

(3) The juvenile, who is at least fourteen years of age, used or presented a firearm or other deadly weapon during the commission of a felony; or

(4) The juvenile has committed a violation of §61A-4-401 of this code which would be a felony if the juvenile was an adult involving the manufacture, delivery or possession with the intent to

deliver a narcotic drug. For purposes of this subdivision, the term narcotic drug has the same definition as that set forth in section one hundred one, article one of that chapter;

(5) The juvenile has committed the crime of second degree arson as defined in §61A-3-2 of this code involving setting fire to or burning a public building or church. For purposes of this subdivision, the term public building means a building or structure of any nature owned, leased or occupied by this state, a political subdivision of this state or a county board of education and used at the time of the alleged offense for public purposes. For purposes of this subdivision, the term church means a building or structure of any nature owned, leased or occupied by a church, religious sect, society or denomination and used at the time of the alleged offense for religious worship or other religious or benevolent purpose, or as a residence of a minister or other member of clergy.

(h) For purposes of this section, the term offense of violence means an offense which involves the use or threatened use of physical force against a person.

(i) If, after a hearing, the court directs the transfer of any juvenile proceeding to criminal jurisdiction, it shall state on the record the findings of fact and conclusions of law upon which its decision is based or shall incorporate findings of fact and conclusions of law in its order directing transfer.

(j) A juvenile who has been transferred to criminal jurisdiction pursuant to subsection (e), (f) or (g) of this section, by an order of transfer, has the right to either directly appeal an order of transfer to the ~~supreme court of appeals~~ Intermediate Court of Appeals or to appeal the order of transfer following a conviction of the offense of transfer. If the juvenile exercises the right to a direct appeal from an order of transfer, the notice of intent to appeal and a request for transcript is to be filed within ten days from the date of the entry of any order of transfer, and the petition for appeal is to be presented to the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals within forty-five days from the entry of the order of transfer. Article five, chapter fifty-eight of this code pertaining to the appeals of judgments in civil actions applies to appeals under this chapter except as modified in this section. The court may, within forty-five days of the entry of the order of transfer, by appropriate order, extend and reextend the period in which to file the petition for appeal for additional time, not to exceed a total extension of sixty days, as in the court's opinion may be necessary for preparation of the transcript. However, the request for a transcript was made by the party seeking appeal within ten days of entry of the order of transfer. In the event any notice of intent to appeal and request for transcript be timely filed, proceedings in criminal court are to be stayed upon motion of the defendant pending final action of the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals.

§49-4-712. Intervention and services by the department pursuant to initial disposition for status offenders; enforcement; further disposition; detention; out-of-home placement; department custody; least restrictive alternative; appeal; prohibiting placement of status offenders in a Division of Juvenile Services facility on or after January 1, 2016.

(a) The services provided by the department for juveniles adjudicated as status offenders shall be consistent with part ten, article two of this chapter and shall be designed to develop skills and supports within families and to resolve problems related to the juveniles or conflicts within their families. Services may include, but are not limited to, referral of juveniles and parents, guardians or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, educational or other social services, as appropriate to the needs of the juvenile and his or her family.

(b) If the juvenile, or his or her parent, guardian or custodian, fails to comply with the services provided in subsection (a) of this section, the department may petition the circuit court:

(1) For a valid court order, as defined in section two hundred seven, article one of this chapter, to enforce compliance with a service plan or to restrain actions that interfere with or defeat a service plan; or

(2) For a valid court order to place a juvenile out of home in a nonsecure or staff-secure setting, and/or to place a juvenile in custody of the department: *Provided*, That a juvenile adjudicated as a status offender may not be placed in an out-of-home placement, excluding placements made for abuse and neglect, if that juvenile has had no prior adjudications for a status or delinquency offense, or no prior disposition to a pre-adjudatory improvement period or probation for the current matter: *Provided, however*, That if the court finds by clear and convincing evidence the existence of a significant and likely risk of harm to the juvenile, a family member or the public and continued placement in the home is contrary to the best interests of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further*, That the court finds the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that such reasonable efforts are not required due to an emergent situation.

(c) In ordering any further disposition under this section, the court is not limited to the relief sought in the department's petition and shall make reasonable efforts to prevent removal of the juvenile from his or her home or, as an alternative, to place the juvenile in a community-based facility which is the least restrictive alternative appropriate to the needs of the juvenile and the community. The disposition may include reasonable and relevant orders to the parents, guardians or custodians of the juvenile as is necessary and proper to effectuate the disposition.

(d) (1) If the court finds that placement in a residential facility is necessary to provide the services under subsection (a) of this section, except as prohibited by subdivision (2), subsection (b) of this section, the court shall make findings of fact as to the necessity of this placement, stated on the record or reduced to writing and filed with the record or incorporated into the order of the court.

(2) The findings of fact shall include the factors that indicate:

(A) The likely effectiveness of placement in a residential facility for the juvenile; and

(B) The community services which were previously attempted.

(e) The disposition of the juvenile may not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. Any order providing disposition other than mandatory referral to the department for services is subject to appeal to the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals.

(f) Following any further disposition by the court, the court shall inquire of the juvenile whether or not appeal is desired and the response shall be transcribed; a negative response may not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if it is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(g) A juvenile adjudicated solely as a status offender on or after January 1, 2016, may not be placed in a Division of Juvenile Services facility.

§49-4-714. Disposition of juvenile delinquents; appeal.

(a) In aid of disposition of juvenile delinquents, the juvenile probation officer assigned to the juvenile shall, upon request of the court, make an investigation of the environment of the juvenile and the alternative dispositions possible. The court, upon its own motion, or upon request of counsel, may order the use of a standardized screener, as defined in §49-1-206 of this code or, if additional information is necessary, a psychological examination of the juvenile. The report of an examination and other investigative and social reports shall not be relied upon the court in making a determination of adjudication. Unless waived, copies of the report shall be provided to counsel for the petitioner and counsel for the juvenile no later than 72 hours prior to the dispositional hearing.

(b) Following the adjudication, the court shall receive and consider the results of a needs assessment, as defined in §49-1-206 of this code, and shall conduct the disposition, giving all parties an opportunity to be heard. The disposition may include reasonable and relevant orders to the parents, custodians or guardians of the juvenile as is necessary and proper to effectuate the disposition. At disposition the court shall not be limited to the relief sought in the petition and shall, in electing from the following alternatives, consider the best interests of the juvenile and the welfare of the public:

(1) Dismiss the petition;

(2) Refer the juvenile and the juvenile's parent or custodian to a community agency for needed assistance and dismiss the petition;

(3) Upon a finding that the juvenile is in need of extra-parental supervision: (A) Place the juvenile under the supervision of a probation officer of the court or of the court of the county where the juvenile has his or her usual place of abode or other person while leaving the juvenile in custody of his or her parent or custodian; and (B) prescribe a program of treatment or therapy or limit the juvenile's activities under terms which are reasonable and within the child's ability to perform, including participation in the litter control program established pursuant to §22-15A-3 of this code or other appropriate programs of community service;

(4) Upon a finding that a parent or custodian is not willing or able to take custody of the juvenile, that a juvenile is not willing to reside in the custody of his or her parent or custodian or that a parent or custodian cannot provide the necessary supervision and care of the juvenile, the court may place the juvenile in temporary foster care or temporarily commit the juvenile to the department or a child welfare agency. The court order shall state that continuation in the home is contrary to the best interest of the juvenile and why; and whether or not the department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 *et seq.* of this code and guidelines promulgated by the Supreme Court of Appeals;

(5) (A) Upon a finding that the best interests of the juvenile or the welfare of the public require it, and upon an adjudication of delinquency, the court may commit the juvenile to the custody of the Director of the Division of Corrections and Rehabilitation for placement in a juvenile services facility for the treatment, instruction and rehabilitation of juveniles. The court maintains discretion to consider alternative sentencing arrangements.

(B) Notwithstanding any provision of this code to the contrary, in the event that the court determines that it is in the juvenile's best interests or required by the public welfare to place the juvenile in the custody of the Division of Corrections and Rehabilitation, the court shall provide the Division of Corrections and Rehabilitation with access to all relevant court orders and records involving the underlying offense or offenses for which the juvenile was adjudicated delinquent, including sentencing and presentencing reports and evaluations, and provide the division with access to school records, psychological reports and evaluations, needs assessment results, medical reports and evaluations or any other such records as may be in the court's possession as would enable the Division of Corrections and Rehabilitation to better assess and determine the appropriate counseling, education and placement needs for the juvenile offender.

(C) Commitments may not exceed the maximum term for which an adult could have been sentenced for the same offense and any such maximum allowable term of confinement to be served in a juvenile correctional facility shall take into account any time served by the juvenile in a detention center pending adjudication, disposition or transfer. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible; or

(6) After a hearing conducted under the procedures set out in §27-5-4(c) and §27-5-4(d) of this code, commit the juvenile to a mental health facility in accordance with the juvenile's treatment plan; the director of the mental health facility may release a juvenile and return him or her to the court for further disposition. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible.

The court shall make all reasonable efforts to place the juvenile in the least restrictive alternative appropriate to the needs of the juvenile and the community: *Provided*, That a juvenile adjudicated delinquent for a nonviolent misdemeanor offense may not be placed in an out-of-home placement within the Division of Corrections and Rehabilitation or the department if that juvenile has no prior adjudications as either a status offender or as a delinquent, or no prior dispositions to a pre-adjudatory improvement period or probation for the current matter, excluding placements made for abuse or neglect: *Provided, however*, That if the court finds by clear and convincing evidence that there is a significant and likely risk of harm, as determined by a needs assessment, to the juvenile, a family member or the public and that continued placement in the home is contrary to the best interest of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further*, That the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that reasonable efforts are not required due to an emergent situation.

(c) In any case in which the court decides to order the juvenile placed in an out-of-state facility or program, it shall set forth in the order directing the placement the reasons the juvenile was not placed in an in-state facility or program.

(d) The disposition of the juvenile shall not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. Any disposition is subject to appeal to the ~~Supreme Court of Appeals~~ Intermediate Court of Appeals.

(e) Following disposition, the court shall inquire whether the juvenile wishes to appeal and the response shall be transcribed; a negative response shall not be construed as a waiver. The

evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if the same is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(f) Following a disposition under §49-4-714(b)(4), §49-4-714(b)(5), or §49-4-714(b)(6) of this code, the court shall include in the findings of fact the treatment and rehabilitation plan the court has adopted upon recommendation of the multidisciplinary team under §49-4-406 of this code.

(g) Notwithstanding any other provision of this code to the contrary, if a juvenile charged with delinquency under this chapter is transferred to adult jurisdiction and there tried and convicted, the court may make its disposition in accordance with this section in lieu of sentencing the person as an adult.”;

And,

On pages forty-two and forty-three, section five, by striking out all of section five, and inserting in lieu thereof a new section, designated section five, to read as follows:

§51-11-5. Jurisdiction; limitations.

(a) The Intermediate Court of Appeals has no original jurisdiction.

(b) Unless specifically provided otherwise in this article, appeals of the following matters shall be made to the Intermediate Court of Appeals, which has appellate jurisdiction over such matters:

(1) Final judgments or orders of a circuit court in a civil case, entered after June 30, 2021;

(2) Judgments or final orders issued in any criminal proceeding in this state;

(3) Final judgments or orders of a family court, entered after June 30, 2021;

(4) Final judgments or orders of a circuit court concerning guardianship or conservatorship matters, pursuant to §44A-1-1 et seq. of this code;

(5) Judgments or final orders issued in any juvenile proceeding pursuant to §49-4-701 et seq. of this code;

(6) Judgments or final orders issued in child abuse and neglect proceedings pursuant to §49-4-601 et seq. of this code;

(7) Orders of commitment, pursuant to §27-5-1 et seq. of this code;

(8) Final judgments, orders, or decisions of an agency or an administrative law judge entered after June 30, 2021, heretofore appealable to the Circuit Court of Kanawha County pursuant to §29A-5-4 or any other provision of this code;

(9) Final orders or decisions of the Health Care Authority issued prior to June 30, 2021, in a certificate of need review, but transferred to the jurisdiction of the Intermediate Court of Appeals upon termination of the Office of Judges pursuant to §16-2D-16a of this code;

(10) Final orders or decisions issued by the Office of Judges after June 30, 2021, and prior to its termination, as provided in §16-2D-16 and §23-5-8a of this code;

(11) Final decisions of the Public Service Commission, pursuant to §24-5-1 of this code; and

(12) Final orders or decisions of the Workers' Compensation Board of Review pursuant to §23-5-1 et seq. of this code, entered after June 30, 2021.

(c) In appeals properly filed pursuant to subsection (b) of this section, the parties shall be afforded a full and meaningful review on the record of the lower tribunal and an opportunity to be heard.

(d) The Intermediate Court of Appeals does not have appellate jurisdiction over the following matters:

(1) Interlocutory appeals;

(2) Certified questions of law; and

(3) Extraordinary remedies, as provided in 53-1-1 et seq. of this code, and any appeal of a decision or order of another court regarding an extraordinary remedy.

Following discussion,

The question being on the adoption of Senator Ihlenfeld=s amendments to the bill, and on this question, Senator Ihlenfeld demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Ihlenfeld=s amendments to the bill rejected.

The bill (Com. Sub. for Com. Sub. for S. B. 275) was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 517, Creating State Parks and Recreation Endowment Fund.

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

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

Senate Bill 573, Supplementing, amending, and increasing appropriations of public moneys for claims against state.

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

Com. Sub. for Senate Bill 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian.

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

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

Com. Sub. for Senate Bill 576, Relating to management of public records.

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

Senate Bill 600, Creating special revenue account designated Military Authority Fund.

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

Com. Sub. for Senate Bill 607, Reporting motor vehicle crashes to owners.

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

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

Senate Bill 618, Conforming WV law to federal distance requirements for locations of salvage yards.

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

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

Com. Sub. for Senate Bill 665, Requiring persons convicted of certain crimes on or after March 8, 1995, provide DNA samples.

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

Com. Sub. for Senate Bill 670, Amending service of process on nonresident persons or corporate entities.

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

Com. Sub. for Senate Bill 676, Permitting fees from Child Abuse Registry be used for information technology support costs.

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

Com. Sub. for Senate Bill 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program.

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

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

On page one, section ten, line three, after the word "all" by inserting the word "monetary".

Following discussion,

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

The bill (Com. Sub. for S. B. 678), as amended, was then ordered to engrossment and third reading.

Eng. Com. Sub. for House Bill 2086, Uniform Real Property Electronic Recording Act.

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

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

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

ARTICLE 4. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.

§39A-4-1. Short title.

This article may be cited as the Uniform Real Property Electronic Recording Act.

§39A-4-2. Definitions.

In this article:

"Commissioner" means the Commissioner of the Division of Highways.

"Document" means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the clerk of the county commission, herein after "county clerk" or "clerk".

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic document" means a document that is received by the county clerk in an electronic form.

“Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality or any other legal or commercial entity.

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

§39A-4-3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying the requirements of this article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature on a document that complies with the electronic notarization procedure under §39-4-19 of this code and §153 CSR 45.

§39A-4-4. Recording of documents.

(a) In this section, “paper document” means a document that is received by the county clerk in a form that is not electronic.

(b) A county clerk:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the Real Property Electronic Recording Standards Advisory Committee pursuant to §39A-4-5 of this code;

(2) May receive, index, store, archive, and transmit electronic documents;

(3) May provide for access to, and search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert information recorded before the clerk began to record electronic documents into electronic form;

(7) May accept electronically any fee or tax relating to electronic recording of real property documents that the clerk is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

§39A-4-5. Administration and standards.

(a) For the purpose of keeping the standards and practices of county clerks in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, and to keep the technology used by clerks in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the Secretary of State shall establish the Real Property Electronic Recording Standards Advisory Committee, to, so far as is consistent with the purposes, policies, and provisions of this article, assist in the adoption, amendment, and repeal of standards and practices.

(b) The commissioner shall appoint at least 18 persons to serve on the committee. In selecting persons to serve on the committee, the commissioner shall appoint:

(1) At least one person who is an attorney who specializes in title work;

(2) At least one person who is a specialist in geographic information system (GIS) mapping;

(3) A representative Commissioner of the Division of Highways;

(4) A representative of the County Clerks' Association;

(5) A representative of the County Commissioners' Association;

(6) A representative of the State Auditor;

(7) A representative of the Governor's Office of Technology;

(8) A representative of the Division of Culture and History;

(9) A representative of the Community Bankers of West Virginia;

(10) A representative of the West Virginia Bankers' Association;

(11) A representative of the West Virginia Housing Development Fund;

(12) A representative of the Real Estate Division of the Department of Administration;

(13) A representative of the Property Tax Division of the Department of Tax and Revenue;

(14) A representative of the West Virginia Board of Professional Surveyors;

(15) A representative of the West Virginia Real Estate Commission;

(16) At least one representative representing the mineral extraction industry;

(17) A representative of the West Virginia College of Law with experience in real property law; and

(18) A representative of the Real Estate Lawyers Division of the West Virginia State Bar Association.

(c) In establishing, amending, and repealing standards and practices for the recording of documents in electronic form, storing electronic records, and setting up systems for searching for and retrieving these land records, the committee shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(d) The Commissioner of the Division of Highways, or his or her designee, shall serve as chair of the Real Property Electronic Recording Standards Advisory Committee.

(e) The commissioner shall:

(1) Provide administrative support to the committee; and

(2) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that contain the standards to implement this article.

(f) Each person, agency, board and organization on the committee shall cover his or her own expenses necessitated by participation on the committee.

(g) The commissioner shall submit a report to the Joint Committee on Government and Finance on or before January 1 of each year until its tasks are complete. The report shall include its efforts to adopt standards in accordance with the requirements of this article and recommendations for further legislative action necessary to effectuate the purposes of this article.

§39A-4-6. Uniformity of application and construction.

In applying and construing the Uniform Real Property Electronic Recording Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§39A-4-7. Relation to electronic signatures in global and national commerce act.

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

The bill (Eng. Com. Sub. for H. B. 2086), as amended, was then ordered to third reading.

Eng. House Bill 4007, Born-Alive Abortion Survivors Protection Act.

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

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

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

ARTICLE 2P. BORN-ALIVE ABORTION SURVIVORS PROTECTION ACT.

§16-2P-1. Born-Alive Abortion Survivors Protection Act.

(a) Definitions. — For purposes of this section:

(1) “Abortion” has the same meaning as that set forth in §16-2F-2 of this code.

(2) “Attempt to perform an abortion” has the same meaning as that set forth in §16-2M-2 of this code.

(3) “Born alive” means the complete expulsion or extraction from its mother of the fetus, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(4) “Fetus” has the same meaning as that set forth in §16-2M-2 of this code.

(5) “Licensed Medical Professional” means a person licensed under Chapter 30 of this code practicing within his or her scope of practice.

(6) “Physician” has the same meaning as set forth in §16-2M-2 of this code.

(7) “Reasonable medical judgment” has the same meaning as set forth in §16-2M-2 of this code.

(b) Prohibition. —

(1) If a physician performs or attempts to perform an abortion that results in a fetus being born alive the physician shall:

(A) Exercise the same degree of reasonable medical judgment to preserve the life and health of the child as a physician would render to any other fetus born alive at the same gestational age; and

(B) Ensure that the fetus born alive is immediately transported and admitted to a hospital.

(2) A person who has knowledge of a failure to comply with the requirements of this subsection shall report the failure to the applicable licensing board.

(c) Enforcement. —

(1) Any physician or other licensed medical professional who knowingly and willingly violates subsection (b) of this section is considered to have breached the standard of care owed to patients, and is subject to discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice.

(2) Any person, not subject to subdivision (1) of this subsection, who knowingly and willfully violates subsection (b) of this section is guilty of the unauthorized practice of medicine in violation of §30-3-13 of this code, and, upon conviction thereof, is subject to the penalties contained in that section.

(3) In addition to the penalties set forth in this section, a patient may seek any remedy otherwise available to the patient by applicable law.

(4) No penalty may be assessed against any patient upon whom an abortion is performed or attempted to be performed.

The bill (Eng. H. B. 4007), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4058, Relating to pharmacy benefit managers.

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

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

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

ARTICLE 51. PHARMACY AUDIT INTEGRITY ACT.

§33-51-8. Licensure of pharmacy benefit managers.

(a) A person or organization may not establish or operate as a pharmacy benefits manager in the State of West Virginia without first obtaining a license from the Insurance Commissioner pursuant to this section: *Provided*, That a pharmacy benefit manager registered pursuant to ~~§33-5-7~~ §33-51-7 of this code may continue to do business in the state until the Insurance Commissioner has completed the legislative rule as set forth in ~~§33-55-10~~ §33-51-10 of this code: *Provided, however*, That additionally the pharmacy benefit manager shall submit an application within six months of completion of the final rule. The Insurance Commissioner shall make an application form available on its publicly accessible Internet website that includes a request for the following information:

(1) The identity, address, and telephone number of the applicant;

(2) The name, business address, and telephone number of the contact person for the applicant;

(3) When applicable, the federal employer identification number for the applicant; and

(4) Any other information the Insurance Commissioner considers necessary and appropriate to establish the qualifications to receive a license as a pharmacy benefit manager to complete the

licensure process, as set forth by legislative rule promulgated by the Insurance Commissioner pursuant to ~~§33-51-9(f)~~ §33-51-10 of this code.

(b) Term and fee. —

(1) The term of licensure shall be two years from the date of issuance.

(2) The Insurance Commissioner shall determine the amount of the initial application fee and the renewal application fee for the registration. The fee shall be submitted by the applicant with an application for registration. An initial application fee is nonrefundable. A renewal application fee shall be returned if the renewal of the registration is not granted.

(3) The amount of the initial application fees and renewal application fees must be sufficient to fund the Insurance Commissioner's duties in relation to his/her responsibilities under this section, but a single fee may not exceed \$10,000.

(4) Each application for a license, and subsequent renewal for a license, shall be accompanied by evidence of financial responsibility in an amount of \$1 million.

(c) Licensure. —

(1) The Insurance Commissioner shall propose legislative rules, in accordance with ~~§33-51-9(f)~~ §33-51-10 of this code, establishing the licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers.

(2) Upon receipt of a completed application, evidence of financial responsibility, and fee, the Insurance Commissioner shall make a review of each applicant and shall issue a license if the applicant is qualified in accordance with the provisions of this section and the rules promulgated by the Insurance Commissioner pursuant to this section. The commissioner may require additional information or submissions from an applicant and may obtain any documents or information reasonably necessary to verify the information contained in the application.

(3) The license may be in paper or electronic form, is nontransferable, and shall prominently list the expiration date of the license.

(d) Network adequacy. —

(1) A pharmacy benefit manager's network shall not be comprised only of mail-order benefits but must have a mix of mail-order benefits and physical stores in this state.

(2) A pharmacy benefit manager shall provide a pharmacy benefit manager's network report describing the pharmacy benefit manager's network and the mix of mail-order to physical stores in this state in a time and manner required by rule issued by the Insurance Commissioner pursuant to this section.

(3) Failure to provide a timely report may result in the suspension or revocation of a pharmacy benefit manager's license by the Insurance Commissioner.

(e) Enforcement. —

(1) The Insurance Commissioner shall enforce this section and may examine or audit the books and records of a pharmacy benefit manager providing pharmacy benefits management to determine if the pharmacy benefit manager is in compliance with this section: *Provided*, That any information or data acquired during the examination or audit is considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-4(a)(1) of this code.

(2) The Insurance Commissioner ~~may~~ shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code regulating pharmacy benefit managers in a manner consistent with this chapter. Rules adopted pursuant to this section shall set forth penalties or fines, including, without limitation, monetary fines, suspension of licensure, and revocation of licensure for violations of this chapter and the rules adopted pursuant to this section.

(3) A person who violates this provision of this article or the legislative rules implementing its provisions may be fined not less than \$1,000 and not more than \$10,000 per violation.

(f) Applicability. —

(1) This section is applicable to any contract or health benefit plan issued, renewed, recredentialed, amended, or extended on or after July 1, 2019.

(2) The requirements of this section, and any rules promulgated by the Insurance Commissioner pursuant to ~~§33-51-9(f)~~ §33-51-10 of this code, do not apply to the coverage of prescription drugs under a plan that is subject to the Employee Retirement Income Security Act of 1974 or any information relating to such coverage.

§33-51-10. Commissioner required to propose rules.

The Insurance Commissioner ~~may~~ shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code that are necessary to effectuate the provisions of this article.

The bill (Eng. Com. Sub. for H. B. 4058), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Senate Bill 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System.

Com. Sub. for Senate Bill 657, Allowing designation of tourism development districts.

Eng. House Bill 2922, Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids.

Eng. House Bill 3039, Relating to a court's consideration of the expression of a preference by a child in certain child custody matters.

Eng. House Bill 4030, Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans.

And,

Eng. Com. Sub. for House Bill 4275, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Plymale, Takubo, and Sypolt.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senators Plymale and Takubo were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills:

Com. Sub. for Senate Bill 163 (*Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator*): Senator Maroney;

Com. Sub. for Senate Bill 230 (*Requiring State Board of Education provide routine education in suicide prevention*): Senator Maroney;

Com. Sub. for Senate Bill 583 (*Creating program to further development of renewable energy resources*): Senator Roberts;

Senate Bill 628 (*Creating WV Children's Vision Act*): Senator Woelfel;

Senate Bill 663 (*Exempting certain hygiene products from sales tax*): Senator Woelfel;

Senate Bill 664 (*Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity*): Senator Maroney;

Senate Bill 709 (*Removing limitation on damages due to sexual assault or sexual abuse on minor*): Senator Woelfel;

Senate Bill 716 (*Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization*): Senator Stollings;

Senate Bill 717 (*Relating generally to adult protective services*): Senator Stollings;

Senate Bill 718 (*Providing immunity from civil or criminal liability for individuals who provide assistance on report of child abuse or neglect*): Senators Facemire and Stollings;

Senate Bill 719 (*Imposing health care-related provider tax on certain health care organizations*): Senators Clements and Stollings;

Senate Bill 720 (*Including DHHR employees in WV Clearance for Access: Registry and Employment Screening process*): Senators Clements and Stollings;

Senate Bill 721 (*Relating to certain institutions that provide care and treatment of mentally ill or intellectually disabled individuals*): Senators Stollings and Woelfel;

Senate Bill 722 (*Relating to special license plates for public and private nonprofit transit providers*): Senators Hardesty, Prezioso, and Stollings;

Senate Bill 723 (*Requiring Department of Education develop plan based on analyzed data on school discipline*): Senators Cline and Stollings;

And,

Senate Bill 724 (*Including ulcerative colitis as serious medical condition*): Senators Stollings and Woelfel.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

Senate Joint Resolution 2 (*Disabled Veteran Exemption From Ad Valorem Property Taxation Amendment*): Senator Sypolt;

Senate Joint Resolution 3 (*Protection of the Right to Bear Arms Amendment*): Senator Smith;

Senate Joint Resolution 5 (*Homestead Exemption Increase Amendment*): Senator Smith;

Senate Concurrent Resolution 14 (*Urging Congress declare Equal Rights Amendment to US Constitution*): Senator Woelfel;

Senate Concurrent Resolution 21 (*US Army SSG James "Junior" Spurrier Memorial Bridge*): Senator Woelfel;

Senate Concurrent Resolution 23 (*Requesting study of State Police's increased duties and responsibilities*): Senators Lindsay, Stollings, and Sypolt;

Senate Concurrent Resolution 24 (*Fire Chief Lee Thomas Memorial Bridge*): Senators Lindsay, Romano, and Sypolt;

Senate Concurrent Resolution 25 (*Requesting study on impact of future electromagnetic pulse catastrophe*): Senator Sypolt;

Senate Concurrent Resolution 26 (*Urging US Congress reopen public lands*): Senators Cline and Sypolt;

And,

Senate Resolution 34 (*Designating February 7, 2020, as Dental Hygienists Day*): Senators Cline, Jeffries, Lindsay, Plymale, and Prezioso.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:37 p.m., the Senate adjourned until Monday, February 10, 2020, at 11 a.m.

SENATE CALENDAR

**Monday, February 10, 2020
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 27 - Requesting study on ways to make State Capitol building more handicap accessible
- S. C. R. 28 - Curtis "Pap" and Millie "Mammie" Asbury Bridge
- S. C. R. 29 - Requesting DEA and USDA promulgate rule allowing state to take custody of certain cannabis plants for testing on lowering THC levels in processed hemp

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 96 - Prohibiting municipalities from limiting persons' rights to possess certain weapons
- Eng. Com. Sub. for S. B. 195 - Updating powers of personal representatives of deceased person's estate
- Eng. S. B. 266 - Clarifying and updating language regarding Fairmont State alumni license plates
- Eng. Com. Sub. for Com. Sub. for S. B. 275 - Creating Intermediate Court of Appeals
- Eng. S. B. 573 - Supplementing, amending, and increasing appropriations of public moneys for claims against state
- Eng. Com. Sub. for S. B. 576 - Relating to management of public records
- Eng. S. B. 600 - Creating special revenue account designated Military Authority Fund
- Eng. Com. Sub. for S. B. 665 - Requiring persons convicted of certain crimes on or after March 8, 1995, provide DNA samples
- Eng. Com. Sub. for S. B. 670 - Amending service of process on nonresident persons or corporate entities
- Eng. Com. Sub. for S. B. 676 - Permitting fees from Child Abuse Registry be used for information technology support costs
- Eng. Com. Sub. for S. B. 678 - Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program
- Eng. Com. Sub. for H. B. 2086 - Uniform Real Property Electronic Recording Act
- Eng. H. B. 4007 - Born-Alive Abortion Survivors Protection Act - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4058 - Relating to pharmacy benefit managers

SECOND READING

- Com. Sub. for S. B. 97 - Allowing senior judge to continue receiving per diem compensation beyond annual salary of sitting judge due to delay by Governor in filling vacancy

Com. Sub. for S. B. 131 - Creating Tim Tebow Act

S. B. 202 - Allowing one member of PSD board to be county commissioner

Com. Sub. for S. B. 208 - Protecting consumers from unfair pricing practices during state of emergency

Com. Sub. for S. B. 517 - Creating State Parks and Recreation Endowment Fund

Com. Sub. for S. B. 575 - Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian

Com. Sub. for S. B. 607 - Reporting motor vehicle crashes to owners

S. B. 618 - Conforming WV law to federal distance requirements for locations of salvage yards

S. B. 654 - Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System

Com. Sub. for S. B. 657 - Allowing designation of tourism development districts

Eng. H. B. 2922 - Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids - (Com. amend. and title amend. pending)

Eng. H. B. 3039 - Relating to a court's consideration of the expression of a preference by a child in certain child custody matters - (Com. amend. and title amend. pending)

Eng. H. B. 4030 - Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4275 - Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission - (Com. amend. and title amend. pending)

FIRST READING

Com. Sub. for S. B. 163 - Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator

S. B. 180 - Relating to Second Chance Driver's License Program

Com. Sub. for S. B. 230 - Requiring State Board of Education provide routine education in suicide prevention

Com. Sub. for Com. Sub. for S. B. 490 - Relating to protection of animal and crop facilities

S. B. 545 - Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund

Com. Sub. for S. B. 571 - Expiring funds from State Excess Lottery Revenue Fund to various accounts

Com. Sub. for S. B. 583 - Creating program to further development of renewable energy resources

S. B. 641 - Allowing WVCHIP flexibility in rate setting

- S. B. 647 - Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders
- Com. Sub. for S. B. 662 - Removing restrictions on fiduciary commissioners
- S. B. 664 - Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity
- Com. Sub. for S. B. 674 - Permitting DOH purchase hardware items and equipment from local seller
- Eng. Com. Sub. for H. B. 2602 - Including possession of known stolen property in the offense of receiving or transferring stolen property - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2924 - Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website
- Eng. Com. Sub. for H. B. 4129 - Relating to adoption
- Eng. H. B. 4141 - Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December - (Com. amend. pending)
- Eng. H. B. 4179 - Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (original similar to SB492)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2020

Monday, February 10, 2020

1 p.m.	Natural Resources	(Room 208W)
2 p.m.	Banking & Insurance	(Room 451M)