

WEST VIRGINIA LEGISLATURE
SENATE JOURNAL
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015
SIXTY-FOURTH DAY

Charleston, W. Va., Wednesday, March 18, 2015

The Senate met at 9 a.m.

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

Prayer was offered by the Honorable Mitch Carmichael, a senator from the fourth district.

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

Pending the reading of the Journal of Tuesday, March 17, 2015,

On motion of Senator Walters, the Journal was approved and the further reading thereof dispensed with.

The Clerk presented a communication from the Agricultural Land Protection Authority, submitting its annual report as required by chapter eight-a, article twelve, section ten of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Coal Mine Health and Safety, submitting its annual report, in accordance with chapter twenty-two-a, article six, section nine of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Office of Miners' Health, Safety and Training, submitting its coal mine safety report as required by chapter twenty-two-a, article twelve, section one of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee, submitting its annual report, in accordance with chapter twenty-four-a, article one-a, section two of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Examiners in Counseling, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Geological and Economic Survey, submitting its annual report, in accordance with chapter twenty-nine, article two, section six of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Department of Health and Human Resources, submitting its child care center annual report as required by chapter forty-nine, article two-b, section fourteen of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Department of Health and Human Resources, submitting its annual Youth Services report, in accordance with chapter forty-nine,

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article five-b, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Medicine, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Bureau of Senior Services, submitting its annual report, in accordance with chapter sixteen, article five-p, section fourteen of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 17, 2015

Senate Executive Message No. 5

The Honorable William P. Cole III

President, West Virginia Senate

State Capitol

Charleston, West Virginia

Dear President Cole:

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The following amends and replaces the “FY 2016 Official Estimate General Revenue – Statement of Revenues by Source” which I submitted to you on January 14, 2015, as part of my Budget Document for the fiscal year ending June 30, 2016:

Source of Revenue	FY 2016 Official Estimate Revised
Business and Occupation Tax	\$ 117,000
Consumers Sales and Use Tax	1,269,800 ¹
Personal Income Tax	1,860,500
Liquor Profit Transfers	16,050
0	
8,200	
100,400	
0	
650	
0	
13,400	
6,850	
120,200	
18,100	
173,200	2
1,300	
15,000	
471,700	
0	
20,000	
83,355	
0	
71	
<u>10,000</u>	
<u>\$4,305,776</u>	3

11,500 due to failure of HB2211/SB266 during the 2015 Regular Legislative Session.

00 due to failure of HB2226/SB268 during the 2015 Regular Legislative Session.

15,800.

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Thank you for your cooperation in this matter.

Sincerely,

Earl Ray Tomblin,

Governor.

In compliance with Article VI, Section 51 of the Constitution, the Senate consented to receive the foregoing amendments to the Budget Bill, which were referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. No. 286), Relating to compulsory immunizations of students; exemptions.

(Com. Sub. for S. B. No. 287), Providing posthumous high school diplomas.

(Com. Sub. for Com. Sub. for S. B. No. 455), Relating to public higher education procurement and payment of expenses.

(Com. Sub. for S. B. No. 529), Relating to PERS, SPRS and TRS benefits and costs.

And,

(H. B. No. 2664), Creating "Andrea and Willy's Law"; increasing certain penalties for driving under the influence of alcohol, controlled substances or drugs.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. No. 106), Excepting professional engineer member from sanitary board when project engineer is under contract.

(Com. Sub. for S. B. No. 261), Clarifying definition of "owner" of dam.

(S. B. No. 267), Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.

(Com. Sub. for S. B. No. 284), Relating to chief law-enforcement officer's requirement to certify transfer or making of certain firearms.

(S. B. No. 310), Exempting nonprofit public utility companies from B&O tax.

(Com. Sub. for Com. Sub. for S. B. No. 336), Eliminating Health Care Authority's power to apply certain penalties to future rate applications.

(Com. Sub. for S. B. No. 342), Clarifying scope, application and requirements for error corrections by CPRB.

(Com. Sub. for S. B. No. 347), Creating Firearms Act of 2015.

(S. B. No. 360), Repealing code sections relating to book indexes and claims reports required by court clerks.

(Com. Sub. for S. B. No. 373), Allowing wireless communication image serve as proof of

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motor vehicle insurance.

(S. B. No. 403), Increasing period during which recorded and refiled motor vehicle liens are valid.

(Com. Sub. for S. B. No. 409), Establishing Fair and Open Competition in Governmental Construction Act.

(S. B. No. 412), Relating to Real Estate Commission complaint filings.

(S. B. No. 418), Relating to trustee real estate sale under deed of trust.

And,

(S. B. No. 502), Relating to eligibility for certain reclamation or remediation tax credit.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 9:25 a.m. today:

Eng. Com. Sub. for House Bill No. 2016, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On motion of Senator Carmichael, the Senate recessed until 2 p.m. today.

Upon expiration of the recess, the Senate reconvened.

At the request of Senator Romano, and by unanimous consent, the provisions of rule number

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fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Michael Joseph Romano II, the son of the Honorable Michael J. Romano, a senator from the twelfth district, privileges of the floor for the day.

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

Executive Communications

Senator Cole (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 18, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 286 for technical reasons.

The bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). The bill's title is the same title included in the introduced version of the bill and was not amended to reflect the committee substitute or amendments. As a result, the title includes provisions that are

no longer in the bill and does not accurately provide notice of the current provisions in the bill.

For the foregoing technical defect, I disapprove and return this bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable Natalie E. Tennant

Senator Carmichael moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

Enr. Com. Sub. for Senate Bill No. 286, Relating to compulsory immunizations of students; exemptions.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill No. 286, the same was put and prevailed.

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

On page three, section four, line twenty-six, by striking out the words "enrolling from schools";

And,

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

Enr. Com. Sub. for Senate Bill No. 286--An Act to amend and reenact §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, all relating generally to mandatory immunizations; adding required immunizations; requiring immunizations in public, private and parochial schools; requiring immunizations in state regulated day care centers; providing

medical exemptions from mandatory immunizations for children; allowing for provisional enrollment; requiring parents and guardians to provide a certificate from the Commissioner of the Bureau for Public Health; providing that certificate be provided before exemption applies; requiring that a request for a medical exemption must be accompanied with a certificate from a licensed physician indicating immunization is medically contraindicated; providing that county health departments shall provide immunizations when families attest they cannot afford them; allowing Commissioner of the Bureau for Public Health to grant, renew, condition, deny, suspend or revoke exemptions when not medically indicated; allowing for appointment by Commissioner of the Bureau for Public Health of an immunization officer who must be a physician; allowing for immunization officer to make determinations regarding exemptions; providing for an appeal procedure for determinations by the immunization officer or the state health officer; modifying Immunization Advisory Committee; establishing a chair of the committee; and setting forth ethical limitations for committee members.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--32.

The nays were: None.

Absent: Palumbo and Takubo--2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. No. 286) passed with its title, as amended,

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as a result of the objections of the Governor.

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

Senator Cole (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 17, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 287.

The bill's enacting section is in error. It purports to enact a new section of the W. Va. Code, designated as §18-2-32. However, the bill's title designates the new section as §18-2-34a. I urge the Legislature to correct this technical inconsistency, and to return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin,

Governor.

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The Honorable Tim Armstead

The Honorable Natalie E. Tennant

Senator Carmichael moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

Enr. Com. Sub. for Senate Bill No. 287, Providing posthumous high school diplomas.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill No. 287, the same was put and prevailed.

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

Enr. Com. Sub. for Senate Bill No. 287--An Act to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-32, relating to providing for awarding posthumous high school diplomas under certain circumstances; and designating provisions as "Todd's Law".

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--32.

The nays were: None.

Absent: Palumbo and Takubo--2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the

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President declared the bill (Enr. Com. Sub. for S. B. No. 287) passed with its title, as amended, as a result of the objections of the Governor.

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

Senator Cole (Mr. President) next laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 17, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 529.

The bill presented to me does not accurately reflect certain amendments passed by the Legislature. For example, West Virginia Code §18-7D-6, which was added to the bill by amendment of the House of Delegates and concurred with by the Senate, is not included in the bill's final enrolled committee substitute. As such, the bill presented to my office is inaccurate.

Moreover, the title of the bill may be deficient and should be reviewed to determine that it accurately reflects all provisions contained within the bill.

Finally, the enacting section of the bill and the title of the bill are inconsistent in the West Virginia Code sections referenced. For example, §18-7D-6 appears in the title but not in the enacting section. These two sections should be revised to be consistent.

I urge the Legislature to review this bill, revise the technical issues, and return it to my desk for signature.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable Natalie E. Tennant

Senator Carmichael moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

Enr. Com. Sub. for Senate Bill No. 529, Relating to PERS, SPRS and TRS benefits and costs.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill No. 529, the same was put and prevailed.

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

On page sixty-six, after line eighty-three, by adding a new section, designated section six, to read as follows:

**FROM TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM TO STATE TEACHERS
RETIREMENT SYSTEM.**

ment System following transfer; conversion of assets; adjustments.

(a) Any member who has affirmatively elected to transfer to the State Teachers Retirement System within the period provided in section seven of this article whose assets have been transferred from the Teachers' Defined Contribution Retirement System to the State Teachers Retirement System pursuant to the provisions of this article and who has not made any withdrawals or cash-outs from his or her assets is, depending upon the percentage of actively contributing members affirmatively electing to transfer, entitled to service credit in the State Teachers Retirement System in accordance with the provisions of subsection (c) of this section.

(b) Any member who has made withdrawals or cash-outs will receive service credit based upon the amounts transferred. The board shall make the appropriate adjustment to the service credit the member will receive.

(c) More than seventy-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elected to transfer to the State Teachers Retirement System within the period provided in section seven of this article. Therefore, any member of the Teachers' Defined Contribution Retirement System who decides to transfer to the State Teachers Retirement System calculates his or her service credit in the State Teachers Retirement System as follows:

(1) For any member affirmatively electing to transfer, the member's State Teachers Retirement System credit shall be seventy-five percent of the member's Teachers' Defined Contribution Retirement System service credit, less any service previously withdrawn by the member or due to a qualified domestic relations order and not repaid;

(2) To receive full credit in the State Teachers Retirement System for service in the Teachers' Defined Contribution Retirement System for which assets are transferred, members who affirmatively elected to transfer and who provided to the board a signed verification of cost for

service credit purchase form by the effective date of the amendments to this section enacted in the 2009 regular legislative session shall pay into the State Teachers Retirement System a one and one-half percent contribution by no later than July 1, 2015, or no later than ninety days after the postmarked date on a final and definitive contribution calculation from the board, whichever is later. This contribution shall be calculated as one and one-half percent of the member's estimated total earnings for which assets are transferred, plus interest of four percent per annum accumulated from the date of the member's initial participation in the Teachers' Defined Contribution Retirement System through June 30, 2009, and interest of seven and one-half percent per annum accumulated from July 1, 2009, through July 1, 2015: *Provided*, That any member who transferred and provided to the board a signed verification of cost for service credit purchase form by June 30, 2009, but was unable to complete the purchase of the one and one-half percent contribution, or any member who did not request a verification of cost letter but attempted to purchase the one and one-half percent contribution and was denied in writing by the board on or before December 31, 2009, may request the board on or before April 15, 2015, to recalculate the contribution for 2015. To receive full credit, the member shall pay into the State Teachers Retirement System the recalculated purchase amount by July 1, 2015, or no later than sixty days after the postmarked date on a contribution recalculation from the board, whichever is later. The recalculated contribution shall include the interest loss at the actuarial rate of seven and one-half percent. The board's executive director may correct clerical errors.

(A) For a member contributing to the Teachers' Defined Contribution Retirement System at any time during the 2008 fiscal year and commencing membership in the State Teachers Retirement System on July 1, 2008, or August 1, 2008, as the case may be:

(i) The estimated total earnings shall be calculated based on the member's salary and the

member's age nearest birthday on June 30, 2008;

(ii) This calculation shall apply both an annual backward salary scale from that date for prior years' salaries and a forward salary scale for the salary for the 2008 fiscal year.

(B) The calculations in paragraph (A) of this subdivision are based upon the salary scale assumption applied in the West Virginia Teachers Retirement System actuarial valuation as of July 1, 2007, prepared for the Consolidated Public Retirement Board. This salary scale shall be applied regardless of breaks in service.

(d) All service previously transferred from the State Teachers Retirement System to the Teachers' Defined Contribution Retirement System is considered Teachers' Defined Contribution Retirement System service for the purposes of this article.

(e) Notwithstanding any provision of this code to the contrary, the retirement of a member who becomes eligible to retire after the member's assets are transferred to the State Teachers Retirement System pursuant to the provisions of this article may not commence before September 1, 2008: *Provided*, That the Consolidated Public Retirement Board may not retire any member who is eligible to retire during the calendar year 2008 unless the member has provided a written notice to his or her county board of education by July 1, 2008, of his or her intent to retire.

(f) The provisions of section twenty-eight-e, article seven-a of this chapter do not apply to the amendments to this section enacted during the 2009 regular legislative session or the 2015 regular legislative session.;

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

That §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of

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West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §5-10-21a; that §5-13-2 of said code be amended and reenacted; that §5-16-13 of said code be amended and reenacted; that §15-2A-21 of said code be amended and reenacted; that §18-7A-17, §18-7A-23, §18-7A-25 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b; and that §18-7D-6 of said code be amended and reenacted, all to read as follows;

And,

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

Enr. Com. Sub. for Senate Bill No. 529--An Act to amend and reenact §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-10-21a; to amend and reenact §5-13-2 of said code; to amend and reenact §5-16-13 of said code; to amend and reenact §15-2A-21 of said code; to amend and reenact §18-7A-17, §18-7A-23 and §18-7A-25 of said code; to amend said code by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b; and to amend and reenact §18-7D-6, all relating generally to benefits and costs for certain members of the West Virginia Public Employees Retirement System, State Police Retirement System and Teachers Retirement System; calculating final average salary and service credit for certain public employees; authorizing purchase of military service for certain members of the West Virginia Public Employees Retirement System and Teachers Retirement System; providing military service credit for certain members of the West Virginia Public Employees Retirement System; increasing contribution rate and years of contributing service required for certain public employees to qualify for certain annuities; providing for determination of years of

service; providing that accrued annual and sick leave of certain employees participating in the West Virginia Public Employees Retirement System, the State Police Retirement System and the Teachers Retirement System may not be applied for retirement service credit; for a limited time permitting certain members of the Teachers Retirement System who transferred from the Teachers' Defined Contribution System to buy, with interest, their full service credit in the Teachers Retirement System; and revising the reciprocal retirement provisions for certain members of the teachers and the public employees system.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Walters, Williams and Cole (Mr. President)--26.

The nays were: Beach, Kessler, Miller, Unger, Woelfel and Yost--6.

Absent: Palumbo and Takubo--2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. No. 529) passed with its title, as amended, as a result of the objections of the Governor.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Walters, Williams and Cole (Mr. President)--26.

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The nays were: Beach, Kessler, Miller, Unger, Woelfel and Yost--6.

Absent: Palumbo and Takubo--2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. No. 529) takes effect from passage.

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

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

On motion of Senator Carmichael, the Senate recessed until 3:30 p.m. today.

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

Executive Communications

Senator Cole (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 17, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 2648.

This bill purports to create a new article in the West Virginia Code titled the “Epinephrine Auto-Injector Availability and Use Act”, designated article forty-six of chapter sixteen. However, this same article was utilized this Regular Session to enact the separate “Access to Opioid Antagonists Act”, which I signed into law on March 9, 2015. In light of this statutory conflict, I am constrained to disapprove and return this bill. I urge the Legislature to repair the technical error identified herein by amending this bill on reconsideration to create a new article in the West Virginia Code for the Epinephrine Auto-Injector Availability and Use Act.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable William P. Cole III

The Honorable Natalie E. Tennant

A message from The Clerk of the House of Delegates announced the reconsideration, amendment and passage as amended, of a bill disapproved and returned by the Governor with his objections, and requested the concurrence of the Senate in the passage, of

Enr. Com. Sub. for House Bill No. 2648, Allowing authorized entities to maintain a stock of epinephrine auto-injectors to be used for emergency.

On motion of Senator Carmichael, the message was taken up for immediate consideration.

Senator Carmichael then moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate reconsider the bill (Enr. Com. Sub. for H. B. No. 2648), heretofore disapproved and returned by His Excellency, the Governor, with his

objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Committee Substitute for House Bill No. 2648, the same was put and prevailed.

On motion of Senator Carmichael, the Senate concurred in the following House of Delegates amendments to the bill:

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4 and §16-47-5, all to read as follows:

OR AVAILABILITY AND USE.

As used in this article the term:

- (1) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual.
- (2) "Authorized entity" means an entity or organization where allergens capable of causing a severe allergic reaction may be present.
- (3) "Authorized health care practitioner" means an allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code and an osteopathic physician licensed to practice pursuant to the provisions of article fourteen, chapter thirty of this code.
- (4) "Department" means the Department of Health and Human Resources.
- (5) "Epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.
- (6) "Self-administration" means an individual's discretionary administration of an epinephrine

auto-injector on herself or himself.

The department may:

- (1) Propose legislative rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, necessary to administer this article; and
- (2) Conduct and approve education training programs.

Educational training programs shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the department. The curriculum shall include at a minimum:

- (1) Recognition of the symptoms of allergic reactions to food, insect stings and other allergens; and
- (2) The proper administration of a subcutaneous injection of epinephrine auto-injector.

auto-injectors; emergency administration.

- (a) An authorized health care practitioner may prescribe an epinephrine injector to an authorized entity. A pharmacist may dispense an epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.
- (b) An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. The epinephrine auto-injectors shall be stored in accordance with the epinephrine auto-injector's instructions. An authorized entity shall designate employees or agents who are trained pursuant to section three of this article to be responsible for the storage, maintenance and general oversight of epinephrine auto-injectors.
- (c) An individual trained pursuant to section three of this article may, on the premises of or in

connection with the authorized entity, use epinephrine auto-injectors to:

(1) Provide an epinephrine auto-injector to a person who the trained individual in good faith believes is experiencing a severe allergic reaction for that person's immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; or

(2) Administer an epinephrine auto-injector to a person who the trained individual in good faith believes is experiencing a severe allergic reaction, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

ility.

(a) The administration of an epinephrine auto-injector in accordance with this article is not the practice of medicine.

(b) An authorized health care practitioner who prescribes epinephrine auto-injectors to an authorized entity; an authorized entity that possesses and makes available epinephrine auto-injectors; and, an entity or person that conducts the training under section three of this article are not liable for civil damages that result from the administration or self-administration of an epinephrine auto-injector, the failure to administer an epinephrine auto-injector, or any other act or omission committed, in good faith, pursuant to this article.

(c) An individual employed by an authorized entity who administers or provides an epinephrine auto-injection to a person as provided in this article is immune from liability for any civil action arising out of an act or omission resulting from the administration of the epinephrine auto-injection unless the act or omission was the result of the individual's gross negligence or willful misconduct.;

And,

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

Enr. Com. Sub. for House Bill No. 2648--An Act to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4 and §16-47-5, all relating to availability and use of epinephrine auto-injectors; providing definitions; providing for legislative rules; providing for training; providing prescriptive authority to health care practitioners in certain circumstances; providing authority to pharmacists to dispense epinephrine auto-injectors in certain circumstances; providing for the storage and emergency use of epinephrine auto-injectors; providing that in certain circumstances the use of epinephrine auto-injectors is not the practice of medicine; providing that in certain circumstances one authorized to prescribe, possess or train regarding epinephrine auto-injectors is not liable for civil damages; and providing that certain individuals who administer or provide an epinephrine auto-injector to a person is immune from liability for civil action unless the act or omission was grossly negligent or willful misconduct.

The question now being on the passage of the bill, disapproved by the Governor and amended by the House of Delegates.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--32.

The nays were: None.

Absent: Palumbo and Takubo--2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for H. B. No. 2648) passed with its title, as amended,

as a result of the objections of the Governor.

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

Senator Cole (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 17, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2664 for technical reasons.

First, the title of the bill is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). The title of the bill fails to note that the bill increases the criminal penalties for driving under the influence of alcohol, controlled substances or drugs causing death. Additionally, the title provides that the bill "eliminat[es] the misdemeanor offense of driving under the influence of alcohol, controlled substances or drugs." Section 17C-5-2(d) and §17C-5-2(e) of the West Virginia Code provide for a misdemeanor offense of driving under the influence of alcohol, controlled substances or drugs. A suggested change to this clause of the title is to add the words "causing death" to the

end of the clause.

Second, the enacting section of the bill is incorrect in form.

Third, the penalties provided for second and third offense violations of §17C-5-2(b) set forth in §17C-5-2(k) and §17C-5-2(l) appear to be in conflict with §17C-5-2(b). With respect to a second offense under §17C-5-2(k), the penalty is less severe than that for a first offense under §17C-5-2(b). For example, a person who commits the second offense of driving under the influence of alcohol, controlled substances or drugs causing serious bodily injury would only be convicted of a misdemeanor under §17C-5-2(k); a first offense of the same crime is a felony under §17C-5-2(b). Similarly, with respect to a third offense under §17C-5-2(l), the imprisonment penalty is less severe than that for a first offense under §17C-5-2(b). A suggested fix for this issue is to create a new subsection or subdivision that deals specifically with penalties for second and third offenses in violation of §17C-5-2(b), along with removing the reference to subsection (b) in subsections (k) and (l) of §17C-5-2. The bill's title will also require language added to cover these suggested revisions.

For the foregoing reasons, I disapprove and return this bill. I urge the Legislature to correct these technical issues, and to return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable William P. Cole III

The Honorable Natalie E. Tennant

A message from The Clerk of the House of Delegates announced the reconsideration, amendment and passage as amended, of a bill disapproved and returned by the Governor with

his objections, and requested the concurrence of the Senate in the passage, of

Enr. House Bill No. 2664, Creating "Andrea and Willy's Law"; increasing certain penalties for driving under the influence of alcohol, controlled substances or drugs.

On motion of Senator Carmichael, the message was taken up for immediate consideration.

Senator Carmichael then moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate reconsider the bill (Enr. H. B. No. 2664), heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled House Bill No. 2664, the same was put and prevailed.

On motion of Senator Carmichael, the Senate concurred in the following House of Delegates amendments to the bill:

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

That §17C-5-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §17C-5A-2 of said code be amended and reenacted, all to read as follows:

Controlled substances or drugs; penalties.

(a) Definitions. --

(1) "Impaired state" means a person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug;

or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) “Bodily Injury” means injury that causes substantial physical pain, illness or any impairment of physical condition.

(3) “Serious Bodily Injury” means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

~~(a) Any person who:~~

~~(1) Drives a vehicle in this state while he or she:~~

~~(A) Is under the influence of alcohol;~~

~~(B) Is under the influence of any controlled substance;~~

~~(C) Is under the influence of any other drug;~~

~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or~~

~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;~~
~~and~~

~~(2) While driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes the death of any person within one year next following the act or failure; and~~

~~(3) Commits the act or failure in reckless disregard of the safety of others and when the influence of alcohol, controlled substances or drugs is shown to be a contributing cause to the death, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two years nor more than ten years and shall be fined not less than \$1,000 nor more than \$3,000.~~

(b) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes the death of any person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years and shall be fined not less than \$1,000 nor more than \$3,000: *Provided*, That any death charged under this subsection must occur within one year of the offense.

~~(b) Any person who:~~

~~(1) Drives a vehicle in this state while he or she:~~

~~(A) Is under the influence of alcohol;~~

~~(B) Is under the influence of any controlled substance;~~

~~(C) Is under the influence of any other drug;~~

~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug;~~

~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;~~
and

~~(2) While driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes the death of any person within one year next following the act or failure, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than ninety days nor more than one year and shall be fined not less than \$500 nor more than \$1,000.~~

(c) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes serious bodily injury to any person other than himself or herself, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and shall be fined not less than \$1,000 nor more than \$3,000.

~~(c) Any person who:~~

~~(1) Drives a vehicle in this state while he or she:~~

~~(A) Is under the influence of alcohol;~~

~~(B) Is under the influence of any controlled substance;~~

~~(C) Is under the influence of any other drug;~~

~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or~~

~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;~~

and

~~(2) While driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than one year, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than \$200 nor more than \$1,000.~~

(d) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day more than one year and shall be fined not less than \$200 nor more than \$1,000: *Provided*, That such jail term shall include actual confinement of not less than twenty-four hours: *Provided*, *however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

~~(d) Any person who:~~

~~(1) Drives a vehicle in this state while he or she:~~

- ~~(A) Is under the influence of alcohol;~~
- ~~(B) Is under the influence of any controlled substance;~~
- ~~(C) Is under the influence of any other drug;~~
- ~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or~~
- ~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent, by weight;~~
- ~~(2) Is guilty of a misdemeanor and, upon conviction thereof, except as provided in section two-b of this article, shall be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500. A person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.~~
- (e) Any person who drives a vehicle in this state while he or she is in an impaired state, but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- ~~(e) (f) Any person who drives a vehicle in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than \$200 nor more than \$1,000. A person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.~~

~~(f)~~ (g) Any person who, being ~~an~~ a habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than \$100 nor more than \$500. A person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

~~(g)~~ Any person who:

~~(1) Knowingly permits his or her vehicle to be driven in this state by any other person who:~~

~~(A) Is under the influence of alcohol;~~

~~(B) Is under the influence of any controlled substance;~~

~~(C) Is under the influence of any other drug;~~

~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug;~~

~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;~~

~~(2) Is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500.~~

(h) Any person who knowingly permits his or her vehicle to be driven in this state by any other person who is in an impaired state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500.

~~(h)~~ (i) Any person who knowingly permits his or her vehicle to be driven in this state by any other person who is a habitual user of narcotic drugs or amphetamine or any derivative thereof is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500.

~~(i)~~ (j) Any person under the age of twenty-one years who drives a vehicle in this state while he or she has an

alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours and shall be fined not less than \$100 nor more than \$500. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the Motor Vehicle Alcohol Test and Lock Program as provided in section three-a, article five-a of this chapter. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), ~~(h)~~ or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

~~(j) Any person who:~~

~~(1) Drives a vehicle in this state while he or she:~~

~~(A) Is under the influence of alcohol;~~

~~(B) Is under the influence of any controlled substance;~~

~~(C) Is under the influence of any other drug;~~

~~(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or~~

~~(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;~~
and

~~(2) The person while driving has on or within the motor vehicle one or more other persons who are unemancipated minors who have not reached their sixteenth birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than twelve months, which jail term is to include actual confinement of not less than forty-eight hours and shall be fined not less than \$200 nor more than \$1,000.~~

(k) Any person who drives a vehicle in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their sixteenth birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than twelve months, and shall be fined not less than \$200 nor more than \$1,000: *Provided*, That such jail term shall include actual confinement of not less than forty-eight hours: *Provided, however*, That a person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

~~(k) (l)~~ A person violating any provision of subsection ~~(b), (c),~~ (d), (e), (f), (g), (h) or ~~(i)~~ (j) of this section, for the second offense under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year and the court may, in its discretion, impose a fine of not less than \$1,000 nor more than \$3,000.

~~(l) (m)~~ A person violating any provision of subsection ~~(b), (c),~~ (d), (e), (f), (g), (h) or ~~(i)~~ (j) of this section, for the third or any subsequent offense under this section, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than ~~one~~ two nor more than ~~three~~ five years and the court may, in its discretion, impose a fine of not less than

\$3,000 nor more than \$5,000.

~~(m)~~ (n) For purposes of subsections ~~(k)~~ and (l) and (m) of this section relating to second, third and subsequent offenses, the following events shall be regarded as offenses under this section:

(1) Any conviction under the provisions of subsection ~~(a)~~, (b), (c), (d), (e), (f), (g) or ~~(g)~~ (h) of this section or under a prior enactment of this section for an offense which occurred within the ten-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection ~~(a)~~, (b), (c), (d), (e), (f), (g), (h) or ~~(h)~~ (i) of this section, which offense occurred within the ten-year period immediately preceding the date of arrest in the current proceeding; and,

(3) Any period of conditional probation imposed pursuant section two-b of this article for violation of subsection ~~(d)~~ (e) of this ~~article~~ section, which violation occurred within the ten-year period immediately preceding the date of arrest in the current proceeding.

~~(n)~~ (o) A person may be charged in a warrant or indictment or information for a second or subsequent offense under this section if the person has been previously arrested for or charged with a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to section two-b of this article.

~~(e)~~ (p) The fact that any person charged with a violation of subsection ~~(a)~~, (b), (c), (d), (e), (f) or ~~(f)~~ (g) of this section, or any person permitted to drive as described under subsection ~~(g)~~ or ~~(h)~~ or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance or a drug does not constitute a defense against any charge of violating subsection ~~(a)~~, (b), (c), (d), (e), (f), (g), (h) or ~~(h)~~ (i) of this section.

~~(p)~~ (q) For purposes of this section, the term “controlled substance” has the meaning ascribed to it in chapter sixty-a of this code.

~~(q)~~ (r) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of article eleven-a, chapter sixty-two of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided further*, That the court may impose a term of conditional probation pursuant to section two-b of this article to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of article eleven-b of said chapter may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided, however*, That for any period of home incarceration ordered for a person convicted of second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of section five, article eleven-b, chapter sixty-two of this code: *Provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than ten days of the total period of home confinement ordered and the offender may not leave home for those ten days notwithstanding section five, article eleven-b,

**PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE
INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS**

(a) Written objections to an order of revocation or suspension under the provisions of section one of this article or section seven, article five of this chapter shall be filed with the Office of Administrative Hearings. Upon the receipt of an objection, the Office of Administrative Hearings shall notify the Commissioner of the Division of Motor Vehicles, who shall stay the imposition of the period of revocation or suspension and afford the person an opportunity to be heard by the Office of Administrative Hearings. The written objection must be filed with Office of Administrative Hearings in person, by registered or certified mail, return receipt requested, or by facsimile transmission or electronic mail within thirty calendar days after receipt of a copy of the order of revocation or suspension or no hearing will be granted: *Provided*, That a successful transmittal sheet shall be necessary for proof of written objection in the case of filing by fax. The hearing shall be before a hearing examiner employed by the Office of Administrative Hearings who shall rule on evidentiary issues. The West Virginia Rules of Evidence shall apply to all proceedings before the hearing examiner. Upon consideration of the designated record, the hearing examiner shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be provided to all parties by registered or certified mail, return receipt requested, or with a party's written consent, by facsimile or electronic mail.

(b) The hearing shall be held at an office of the Division of Motor Vehicles suitable for hearing

purposes located in or near the county in which the arrest was made in this state or at some other suitable place in the county in which the arrest was made if an office of the division is not available. At the discretion of the Office of Administrative Hearings, the hearing may also be held at an office of the Office of Administrative Hearings located in or near the county in which the arrest was made in this state. The Office of Administrative Hearings shall send a notice of hearing to the person whose driving privileges are at issue and the person's legal counsel if the person is represented by legal counsel, by regular mail, or with the written consent of the person whose driving privileges are at issue or their legal counsel, by facsimile or electronic mail. The Office of Administrative Hearings shall also send a notice of hearing by regular mail, facsimile or electronic mail to the Division of Motor Vehicles, and the Attorney General's Office, if the Attorney General has filed a notice of appearance of counsel on behalf of the Division of Motor Vehicles.

(c) (1) Any hearing shall be held within one hundred eighty days after the date upon which the Office of Administrative Hearings received the timely written objection unless there is a postponement or continuance.

(2) The Office of Administrative Hearings may postpone or continue any hearing on its own motion or upon application by the party whose license is at issue in that hearing or by the commissioner for good cause shown.

(3) The Office of Administrative Hearings may issue subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents, items or other things. Subpoenas duces tecum shall be returnable on the date of the next scheduled hearing unless otherwise specified. The Office of Administrative hearings shall issue subpoenas and subpoenas duces tecum at the request of a party or the party's legal representative. The party

requesting the subpoena shall be responsible for service of the subpoena upon the appropriate individual. Every subpoena or subpoena duces tecum shall be served at least five days before the return date thereof, either by personal service made by a person over eighteen years of age or by registered or certified mail, return receipt requested, and received by the party responsible for serving the subpoena or subpoena duces tecum: *Provided*, That the Division of Motor Vehicles may serve subpoenas to law-enforcement officers through electronic mail to the department of his or her employer. If a person does not obey the subpoena or fails to appear, the party who issued the subpoena to the person may petition the circuit court wherein the action lies for enforcement of the subpoena.

(d) Law-enforcement officers shall be compensated for the time expended in their travel and appearance before the Office of Administrative Hearings by the law-enforcement agency by whom they are employed at their regular rate if they are scheduled to be on duty during said time or at their regular overtime rate if they are scheduled to be off duty during said time.

(e) The principal question at the hearing shall be whether the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did refuse to submit to the designated secondary chemical test, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight.

(f) In the case of a hearing in which a person is accused of driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, or accused of driving a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or

more, by weight, or accused of driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the investigating law-enforcement officer had reasonable grounds to believe the person to have been driving while under the influence of alcohol, controlled substances or drugs, or while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or to have been driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense involving driving under the influence of alcohol, controlled substances or drugs; and (4) whether the tests, if any, were administered in accordance with the provisions of this article and article five of this chapter.

(g) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed

to perform a duty imposed by law, which act or failure proximately caused the death of a person and was committed in reckless disregard of the safety of others and if the Office of Administrative Hearings further finds that the influence of alcohol, controlled substances or drugs or the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of ten years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(h) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(i) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act

or failure proximately caused bodily injury to a person other than himself or herself, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(j) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent or more, by weight, or finds that the person knowingly permitted the persons vehicle to be driven by another person who was under the influence of alcohol, controlled substances or drugs, or knowingly permitted the person's vehicle to be driven by another person who had an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight the commissioner shall revoke the person's license for a period of six months or a period of fifteen days with an additional one hundred and twenty days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a of this article: *Provided*, That any period of participation in the Motor Vehicle Alcohol Test and Lock Program that has been imposed by a court pursuant to section two-b, article five of this chapter shall be credited against any period of participation imposed by the commissioner: *Provided, however*, That a person whose license is revoked for driving while under the influence

of drugs is not eligible to participate in the Motor Vehicle Alcohol Test and Lock Program: *Provided further*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *And provided further*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(k) (1) If in addition to finding by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substance or drugs, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person did drive a motor vehicle while having an alcohol concentration in the person's blood of fifteen hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period of forty-five days with an additional two hundred and seventy days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a, article five-a, chapter seventeen-c of this code: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked the person's license more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(2) If a person whose license is revoked pursuant to subdivision (1) of this subsection proves by clear and convincing evidence that they do not own a motor vehicle upon which the alcohol test

and lock device may be installed or is otherwise incapable of participating in the Motor Vehicle Alcohol Test and Lock Program, the period of revocation shall be one hundred eighty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(l) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(m) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when

driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the bodily injury, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*; That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(n) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the commissioner shall suspend the person's license for a period of sixty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article, the period of revocation shall be for one year, or until the person's twenty-first birthday, whichever period is longer.

(o) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did have on or within the Motor vehicle another person who has not reached his or

her sixteenth birthday, the commissioner shall revoke the person's license for a period of one year: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(p) For purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of criminal convictions or administrative suspensions or revocations shall also be regarded as suspensions or revocations under this section or section one of this article:

(1) Any administrative revocation under the provisions of the prior enactment of this section for conduct which occurred within the ten years immediately preceding the date of arrest;

(2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest; or

(3) Any revocation under the provisions of section seven, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest.

(q) In the case of a hearing in which a person is accused of refusing to submit to a designated secondary test, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the arresting law-enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled

substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) whether the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) whether the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated in the manner provided in said section.

(r) If the Office of Administrative Hearings finds by a preponderance of the evidence that: (1) The investigating officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to

submit to the test finally designated, the commissioner shall revoke the person's license to operate a motor vehicle in this state for the periods specified in section seven, article five of this chapter. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence.

(s) If the Office of Administrative Hearings finds to the contrary with respect to the above issues, it shall rescind or modify the commissioner's order and, in the case of modification, the commissioner shall reduce the order of revocation to the appropriate period of revocation under this section or section seven, article five of this chapter. A copy of the Office of Administrative Hearings' final order containing its findings of fact and conclusions of law made and entered following the hearing shall be served upon the person whose license is at issue or upon the person's legal counsel if the person is represented by legal counsel by registered or certified mail, return receipt requested, or by facsimile or by electronic mail if available. The final order shall be served upon the commissioner by electronic mail. During the pendency of any hearing, the revocation of the person's license to operate a motor vehicle in this state shall be stayed.

A person whose license is at issue and the commissioner shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code. Neither the commissioner nor the Office of Administrative Hearings may stay enforcement of the order. The court may grant a stay or supersede as of the order only upon motion and hearing, and a finding by the court upon the evidence presented, that there is a substantial probability that the appellant shall prevail upon the merits and the appellant will suffer irreparable harm if the order is not stayed: *Provided*, That in

no event shall the stay or supersede as of the order exceed one hundred fifty days. The Office of Administrative Hearings may not be made a party to an appeal. The party filing the appeal shall pay the Office of Administrative Hearings for the production and transmission of the certified file copy and the hearing transcript to the court. Notwithstanding the provisions of section four, article five of said chapter, the Office of Administrative Hearings may not be compelled to transmit a certified copy of the file or the transcript of the hearing to the circuit court in less than sixty days. Circuit clerk shall provide a copy of the circuit court's final order on the appeal to the Office of Administrative Hearings by regular mail, by facsimile, or by electronic mail if available.

(t) In any revocation or suspension pursuant to this section, if the driver whose license is revoked or suspended had not reached the driver's eighteenth birthday at the time of the conduct for which the license is revoked or suspended, the driver's license shall be revoked or suspended until the driver's eighteenth birthday or the applicable statutory period of revocation or suspension prescribed by this section, whichever is longer.

(u) Funds for this section's hearing and appeal process may be provided from the Drunk Driving Prevention Fund, as created by section forty-one, article two, chapter fifteen of this code, upon application for the funds to the Commission on Drunk Driving Prevention.;

And,

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

Enr. House Bill No. 2664--An Act to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-5A-2 of said code, all relating to offenses of driving under the influence of alcohol, controlled substances or drugs; defining terms; restating the elements of certain offenses of driving under the influence of alcohol, controlled substances

or drugs; requiring that a person's impaired state proximately cause the injury or death in certain offenses; increasing the penalty for driving under the influence of alcohol, controlled substances or drugs causing death; requiring death to have occurred within one year of an offense of driving under the influence of alcohol, controlled substances or drugs causing death; eliminating the misdemeanor offense of driving under the influence of alcohol, controlled substances or drugs causing death; creating felony offense and penalties for driving under the influence of alcohol, controlled substances or drugs causing serious bodily injury; increasing the penalty for certain subsequent offenses of driving under the influence of alcohol, controlled substances or drugs; and providing that the West Virginia Rules of Evidence apply to administrative proceedings concerning license revocation for driving under the influence.

The question now being on the passage of the bill, disapproved by the Governor and amended by the House of Delegates.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--32.

The nays were: None.

Absent: Palumbo and Takubo--2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. H. B. No. 2664) passed with its title, as amended, as a result of the objections of the Governor.

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

Senator Cole (Mr. President) next laid before the Senate the following communication from His

Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 18, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2880.

This bill is well-intentioned, and I commend the Legislature for tackling West Virginia's opioid addiction predicament by establishing two new drug treatment pilot programs. However, the bill contains certain issues that should be corrected before it becomes law.

From a technical perspective, the bill's title appears to be defective in that it is vague and only references one of the two pilot programs the bill establishes. The title also fails to note that this new article of the West Virginia Code [§62-15A-1, *et seq.*] sets forth definitions and mandates the preparation of a report.

Two additional technical flaws appear on the bill's page 2. The word "opioid" is spelled incorrectly on line 4, and the cross reference in lines 6-7 is erroneous.

Further, I have a substantive concern about this bill. Specifically, I believe the Legislature's delegation of certain executive functions to the Supreme Court of Appeals of West Virginia (*e.g.*,

requesting the Court to provide addiction treatment services) may violate the separation of powers doctrine. *See* Syl. Pt. 1, *State ex rel. Barker v. Manchin*, 279 S.E.2d 622 (W. Va. 1981) (“Article V, section 1 of the Constitution of West Virginia which prohibits any one department of our state government from exercising the powers of the others, is not merely a suggestion; it is part of the fundamental law of our State and, as such, it must be strictly construed and closely followed.”).

This issue can be remedied if the bill is amended to provide that the executive branch Department of Health and Human Resources (“DHHR”) and its Bureau for Behavioral Health and Health Facilities (“BBHFF”) administer the addiction treatment services outlined in the two pilot programs at issue. DHHR and BBHFF can administer these services working collaboratively with the Court and the Division of Corrections (“DOC”).

Notably, DHHR and BBHFF already administer addiction treatment services for the DOC, and DHHR and BBHFF are experts in determining eligibility for Medicaid and other health benefit programs. It makes the most sense for DHHR and BBHFF, rather than the Court and the DOC, to administer the addiction treatment services outlined in the bill.

I urge the Legislature to make the foregoing amendments to Enrolled House Bill No. 2880 today, and to return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable William P. Cole III

The Honorable Natalie E. Tennant

A message from The Clerk of the House of Delegates announced the reconsideration,

amendment and passage as amended, of a bill disapproved and returned by the Governor with his objections, and requested the concurrence of the Senate in the passage, of

Enr. House Bill No. 2880, Creating an addiction treatment pilot program.

On motion of Senator Carmichael, the message was taken up for immediate consideration.

Senator Carmichael then moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate reconsider the bill (Enr. H. B. No. 2880), heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled House Bill No. 2880, the same was put and prevailed.

On motion of Senator Carmichael, the Senate concurred in the following House of Delegates amendments to the bill:

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §62-15A-1, §62-15A-2 and §62-15A-3 all to read as follows:

LOT PROGRAM.

As used in this article:

- (1) "Addiction service provider" means a person licensed by this state to provide addiction and substance abuse services to persons addicted to opioids.
- (2) "Adult drug court judge" means a circuit court judge operating a drug court as defined in subsection (a), section one, article fifteen.
- (3) "Adult Drug Court Program" means an adult treatment court established by the Supreme Court of Appeals of West Virginia pursuant to this article.

(4) "Circuit court" means those courts set forth in article two, chapter fifty-one of this code.

(5) "Court" means the Supreme Court of Appeals of West Virginia.

(6) "Department" means the Department of Health and Human Resources.

(7) "Division" means the Division of Corrections.

(8) "LS/CMI assessment criteria" means the level of service/case management inventory which is an assessment tool that measures the risk and need factors of adult offenders.

(9) "Medication-assisted treatment" means the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

(10) "Prescriber" means an individual currently licensed and authorized by this state to prescribe and administer prescription drugs in the course of their professional practice.

n Resources Pilot Program.

(a) The secretary of the department shall conduct a pilot program to provide addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system, eligible to participate in a program, and selected under this section to be participants in the pilot program because of their dependence on opioids.

(b) In the case of the medication-assisted treatment provided under the pilot program, a drug may be used only if it has been approved by the United States Food and Drug Administration for use in the prevention of relapse to opioid dependence and in conjunction with psychosocial support, provided as part of the pilot program, appropriate to patient needs.

(c) The department may invite the Court and the division to participate in the pilot program.

(d) The department may limit the number of participants.

(e) (1) If the Court's Adult Drug Court Program is selected to participate, it shall select persons

who are participants in the Adult Drug Court program, who have been clinically assessed and diagnosed with opioid addiction. Participants must either be eligible for medicaid, or eligible for a state, federal or private grant or other funding sources that provides for the full payment of the treatment necessary to participate in the pilot program. After being enrolled in the pilot program, participants shall comply with all requirements of the Adult Drug Court Program.

(2) Treatment may be provided under this subsection only by a treatment provider who is approved by the Court or Adult Drug Court Program consistent with the policies and procedures for Adult Drug Courts developed by the Court. In serving as a treatment provider, a treatment services provider shall do all of the following:

(A) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(B) Conduct any necessary additional professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(C) Determine, based on the assessments described in paragraph (B), the treatment needs of the participants served by the treatment provider;

(D) Develop, for the participants served by the treatment provider, individualized goals and objectives;

(E) Provide access to the non-narcotic, long-acting antagonist therapy included in the pilot program's medication-assisted treatment; and

(F) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders.

(f) (1) If the Division of Corrections is selected to participate, the division shall select persons, within the custody of the Division of Corrections, who are determined to be at high risk using the LS/CMI assessment criteria into the pilot program. Participants must either be eligible for medicaid, or eligible for a state, federal or private grant or other funding sources that provides for the full payment of the treatment necessary to participate in the pilot program. After being enrolled in the pilot program, a participant shall comply with all requirements of the treatment program.

(2) A participant shall:

(A) Receive treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(B) Submit to professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(C) Receive, based on the assessments described in paragraph (B), the treatment needs of the participants served by the treatment provider;

(D) Submit to the treatment provider, individualized goals and objectives;

(E) Receive the non-narcotic, long-acting antagonist therapy included in the pilot program's medication-assisted treatment; and

(F) Participate in other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders.

(a) The department shall prepare a report.

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(b) The report shall include:

- (1) Number of participants;
- (2) Number of participants successfully completing the program;
- (3) Offenses committed or offense convicted of;
- (4) Recidivism Rate;
- (5) Potential cost saving or expenditures;
- (6) A statistical analysis which determines the effectiveness of the program; and
- (7) Any other information the reporting entity finds pertinent.

(b) The Court and the division should provide any information necessary to the department to complete the report.

(c) The department shall submit the report to:

- (1) The Governor;
- (2) The Chief Justice of the Supreme Court of Appeals of West Virginia;
- (3) The Joint Committee on Government and Finance; and
- (4) The Commissioner of the Division of Corrections.

(d) The report shall be submitted by July 1, 2017, and shall include twelve months of data from the beginning of the administration of the program.;

And,

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

Enr. House Bill No. 2880 --An Act to amend the Code of West Virginia, 1931, as amended, by adding thereto by adding thereto a new article, designated §62-15A-1, §62-15A-2 and §62-15A-3, all relating to creating an addiction treatment pilot program; defining terms; requiring the Secretary of the Department of Health and Human Resources to create an addiction treatment

pilot program; permitting the department to choose the Supreme Court of Appeals of West Virginia to participate in the pilot program; permitting department to choose the Division of Corrections to participate in the pilot program; permitting the department to limit the number of participants; requiring additional support services if medication-assisted treatment is provided; setting forth pilot program requirements; setting forth a participant's requirements; requiring a report; and requiring the report to be submitted to certain entities.

The question now being on the passage of the bill, disapproved by the Governor and amended by the House of Delegates.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--33.

The nays were: None.

Absent: Palumbo--1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. H. B. No. 2880) passed with its title, as amended, as a result of the objections of the Governor.

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

On motion of Senator Plymale, the Senate recessed for five minutes.

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

A message from The Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report, to take effect

from passage, and requested the concurrence of the Senate in the adoption thereof, as to

Eng. Com. Sub. for House Bill No. 2016, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Whereupon, Senator M. Hall, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for House Bill No. 2016, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill No. 2016 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

[CLERK'S NOTE: For full text of conference committee report, see House Journal of this day.]

Respectfully submitted,

Eric Nelson, *Chair*; Everette W. Anderson, Jr., Bob Ashley, Ray Canterbury, Brent Boggs, Larry A. Williams, Harry Keith White, *Conferees on the part of the House of Delegates*.

Mike Hall, *Chair*; Chris Walters, Dave Sypolt, Gregory L. Boso, Roman W. Prezioso, Jr., Ron Stollings, Robert H. Plymale, *Conferees on the part of the Senate*.

Senator M. Hall, Senate cochair of the committee of conference, was recognized to explain the report.

Following discussion,

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On motion of Senator M. Hall, the report was taken up for immediate consideration and adopted. Engrossed Committee Substitute for House Bill No. 2016, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)--25.

The nays were: Facemire, Kessler, Laird, Miller, Romano, Snyder, Unger and Yost--8.

Absent: Palumbo--1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2016) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)--25.

The nays were: Facemire, Kessler, Laird, Miller, Romano, Snyder, Unger and Yost--8.

Absent: Palumbo--1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2016) takes effect from passage.

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

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

A message from The Clerk of the House of Delegates announced the concurrence by that body in the reconsideration, amendment and passage as amended, by a vote of a majority of all the

members elected to the House of Delegates, as a result of the objections of the Governor, of

Enr. Senate Bill No. 286, Relating to compulsory immunizations of students; exemptions.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the reconsideration, amendment and passage as amended, by a vote of a majority of all the members elected to the House of Delegates, as a result of the objections of the Governor, of

Enr. Com. Sub. for Senate Bill No. 287, Providing posthumous high school diplomas.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the reconsideration, amendment and passage as amended, to take effect from passage, by a vote of a majority of all the members elected to the House of Delegates, as a result of the objections of the Governor, of

Enr. Com. Sub. for Senate Bill No. 529, Relating to PERS, SPRS and TRS benefits and costs.

Senator Carmichael offered the following pre-adjournment resolution:

Senate Resolution No. 58--Raising a committee to notify the House of Delegates the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

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

Senator Cole (Mr. President), under the provisions of the foregoing resolution, appointed the following committee to notify the House of Delegates of impending Senate adjournment:

Senators D. Hall, Ferns and Plymale.

Senator Carmichael then offered the following resolution:

Senate Resolution No. 59--Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to join with a similar committee of the House of Delegates to notify His Excellency, the Governor, that the Legislature has completed its labors and is ready to adjourn *sine die*.

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

Under the provision of the foregoing resolution, Senator Cole (Mr. President) appointed the following committee to notify His Excellency, the Governor, that the Senate is ready to adjourn:

Senators Gaunch, Trump and Kessler.

Thereafter, the President recognized the presence of a three-member delegation from the House of Delegates, namely:

Delegates Ashley, Pasdon and Lynch, who announced that that body had completed its labors and was ready to adjourn *sine die*.

The President then acknowledged another delegation from the House of Delegates, consisting of Delegates Shott, Arvon and Moye, who announced that they had been appointed by that body to join with the similar committee named by the Senate to wait upon His Excellency and were ready to proceed with its assignment.

Senators Gaunch, Trump and Kessler, comprising the Senate committee, then joined with the House committee and proceeded to the executive offices to notify His Excellency, the Governor, of imminent legislative adjournment, and receive any message he might desire to transmit to the members of the Senate.

On motion of Senator Maynard, the Joint Committee on Enrolled Bills was directed after it has examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of the regular sixty-day and extended session of the Legislature, to file its reports with the Clerk of bills so enrolled, showing the date such bills were presented to the Governor; said reports to be included in the final Journal, together with Governor's action on said bills.

In accordance with the foregoing motion, the following reports of the Joint Committee on Enrolled Bills were filed as follows:

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. No. 2098), Authorizing those health care professionals to provide services to patients or residents of state-run veterans' facilities without obtaining an authorization to practice.

(Com. Sub. for H. B. No. 2128), Permitting those individuals who have been issued concealed weapons permits to keep loaded firearms in their motor vehicles on the State Capitol Complex grounds.

(Com. Sub. for H. B. No. 2139), Relating to employment of retired teachers as substitutes in areas of critical need and shortage for substitutes.

(H. B. No. 2140), Building governance and leadership capacity of county board during period of state intervention.

(Com. Sub. for H. B. No. 2148), Conforming the motor vehicle law of this state to the requirements of section 1405(a) of the federal Transportation Equity Act for the Twenty-first Century.

(Com. Sub. for H. B. No. 2160), WV Schools for the Deaf and Blind eligible for School Building Authority funding.

(Com. Sub. for H. B. No. 2187), Encouraging public officials to display the national motto on all public property and public buildings.

(H. B. No. 2213), Reducing the distributions to the West Virginia Infrastructure Fund.

(H. B. No. 2224), Providing that historical reenactors are not violating the provision prohibiting unlawful military organizations.

(Com. Sub. for H. B. No. 2266), Relating to the publication requirements of the administration of estates.

(Com. Sub. for H. B. No. 2283), Authorizing the Department of Environmental Protection to promulgate legislative rules.

(H. B. No. 2370), Increasing the powers of regional councils for governance of regional education service agencies.

(Com. Sub. for H. B. No. 2377), Authorizing State Board of Education to approve certain alternatives with respect to instructional time.

(Com. Sub. for H. B. No. 2381), Providing a teacher mentoring increment for classroom teachers with national board certification who teach and mentor at certain schools.

(H. B. No. 2461), Relating to delinquency proceedings of insurers.

(Com. Sub. for H. B. No. 2493), Relating to requirements for insurance policies and contracts providing accident and sickness insurance or direct health care services that cover anti-cancer

medications.

(Com. Sub. for H. B. No. 2496), Adopting the Interstate Medical Licensure Compact.

(Com. Sub. for H. B. No. 2502), Possessing deadly weapons on school buses or on the premises of educational facilities.

(Com. Sub. for H. B. No. 2536), Relating to travel insurance limited lines producers.

(Com. Sub. for H. B. No. 2550), Increasing the number of unexcused absences of a student before action may be taken against the parent.

(Com. Sub. for H. B. No. 2557), Clarifying that an insured driver of a motor vehicle is covered by the driver's auto insurance policy when renting or leasing a vehicle.

(Com. Sub. for H. B. No. 2571), Creating a fund for pothole repair contributed to by private businesses or entities.

(H. B. No. 2576), Creating new code sections which separate the executive departments.

(H. B. No. 2595), Relating to certificates of need for the development of health facilities in this state.

(H. B. No. 2598), Ensuring that teachers of students with disabilities receive complete information about the school's plan for accommodating the child's disabilities.

(H. B. No. 2606), Clarifying the potential sentence for disorderly conduct.

(H. B. No. 2607), Relating to the violation of interfering with emergency services communications and clarifying penalties.

(H. B. No. 2608), Cleaning up redundant language in the statute relating to misdemeanor offenses for violation of protective orders.

(H. B. No. 2625), Continuing the current hazardous waste management fee.

(Com. Sub. for H. B. No. 2636), Exempting information contained in a concealed weapon

permit application from the Freedom of Information Act.

(Com. Sub. for H. B. No. 2939), Relating to requirements for mandatory reporting of sexual offenses on school premises involving students.

(Com. Sub. for H. B. No. 2652), Reducing the assessment paid by hospitals to the Health Care Authority.

(H. B. No. 2658), Relating to the inspection and slaughter of nontraditional agriculture.

(Com. Sub. for H. B. No. 2662), Eye Care Consumer Protection Law.

(H. B. No. 2733), Removing certain combinations of drugs containing hydrocodone from Schedule III of the controlled substances law.

(H. B. No. 2780), Enhancing the ability of campus police officers at public colleges to perform their duties.

(Com. Sub. for H. B. No. 2790), Relating to minimum responsibility limits of car insurance.

(H. B. No. 2797), Changing the term "mentally retarded" to "intellectually disabled;" and changing the term "handicapped" to "disabled".

(H. B. No. 2888), Allowing the use of rotary drum composters to destroy or dispose of the carcass of any animal to prevent the spread of disease.

(H. B. No. 2892), Authorizing certain legislative rules regarding higher education.

(Com. Sub. for H. B. No. 2902), West Virginia ABLE Act.

(H. B. No. 2931), Adding drugs to the classification of schedule I drugs.

(Com. Sub. for H. B. No. 2968), Exempting from property tax certain properties in this state owned by nonprofit youth organizations.

And,

(H. B. No. 2976), Expanding the eligible master's and doctoral level programs for which a

Nursing Scholarship may be awarded.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for Com. Sub. for S. B. No. 273), Relating to brewer, resident brewer, brewpub, Class A and B retail dealer, private club and Class A and B retail licensee licensing and operations.

(S. B. No. 370), Reorganizing Governor's Committee on Crime, Delinquency and Correction and certain subcommittees.

(Com. Sub. for S. B. No. 407), Implementing state safety oversight program.

(Com. Sub. for S. B. No. 423), Amending Aboveground Storage Tank Act.

(Com. Sub. for S. B. No. 430), Permitting mutual protective orders enjoining certain contact between parties to domestic relations actions.

(Com. Sub. for S. B. No. 486), Authorizing special license plates for Civil Air Patrol vehicles.

(S. B. No. 510), Amending Uniform Interstate Family Support Act.

(S. B. No. 514), Relating to investments of local policemen's and firemen's pension and relief

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funds.

(S. B. No. 549), Establishing classifications and salary schedules for State Police forensic lab civilian employees.

And,

(S. B. No. 581), Relating to courtesy patrol program.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 20th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for Com. Sub. for S. B. No. 60), Regulating food handlers.

(Com. Sub. for S. B. No. 170), Authorizing Bureau of Commerce promulgate legislative rules.

(Com. Sub. for S. B. No. 199), Authorizing miscellaneous agencies and boards promulgate legislative rules.

(Com. Sub. for S. B. No. 242), Creating criminal penalties for certain automated telephone calls during state of emergency or preparedness.

(Com. Sub. for S. B. No. 248), Requiring certain insurance and owner information be provided following car accident.

(S. B. No. 250), Relating to Conservation Agency financial assistance applications from district supervisors.

(Com. Sub. for S. B. No. 315), Relating to civil actions filed under Consumer Protection Act.

And,

(S. B. No. 318), Relating to payment of wages by employers.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 20th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub for H. B. No. 2240), Providing that an act of domestic violence or sexual offense by strangling is an aggravated felony offense.

(Com. Sub for H. B. No. 2395), Storm Scammer Consumer Protection Act.

(Com. Sub for H. B. No. 2766), Expiring funds to the unappropriated balance in the State Fund, General Revenue from the Joint Expenses, and from the Department of Health and Human Resources.

(Com. Sub for H. B. No. 2769), Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue from various agencies.

(Com. Sub for H. B. No. 2772), Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the Auditor's Office - Purchasing Card Administration Fund.

(H. B. No. 2884), Modifying training and development requirement for certain members of certain higher education boards.

(H. B. No. 3020), Making a supplementary appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

(H. B. No. 3021), Making a supplementary appropriation to the Department of Health and Human Resources.

And,

(H. B. No. 3022), Making a supplementary appropriation to the Treasurer's Office, to the State Board of Education, to Mountwest Community and Technical College, to the West Virginia School of Osteopathic Medicine, and to West Virginia State University.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

Roger Hanshaw,

Member, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 23rd day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. No. 12), Relating to payment of separated employee's outstanding wages.

(Com. Sub. for S. B. No. 19), Specifying minimum early childhood education program instruction days.

(Com. Sub. for Com. Sub. for S. B. No. 30), Permitting shared animal ownership agreement to consume raw milk.

(Com. Sub. for S. B. No. 182), Authorizing Department of Military Affairs and Public Safety promulgate legislative rules.

(Com. Sub. for Com. Sub. for S. B. No. 243), Relating to school nutrition standards during state of emergency or preparedness.

(Com. Sub. for Com. Sub. for S. B. No. 352), Expanding scope of cooperative associations to goods and services including recycling.

(Com. Sub. for S. B. No. 390), Authorizing PSC approve expedited cost recovery of natural gas utility infrastructure projects.

(S. B. No. 415), Relating to circuit judges.

(S. B. No. 479), Adding additional family court judges.

(S. B. No. 481), Relating to municipal policemen's and firemen's pension and relief funds' investment.

(S. B. No. 483), Relating to municipal policemen's and firemen's pension and relief funds' trustees.

(Com. Sub. for S. B. No. 488), Creating Broadband Enhancement Council.

(S. B. No. 515), Relating to Municipal Pensions Oversight Board fund investments.

(S. B. No. 532), Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

(S. B. No. 583), Increasing tax rate on providers of certain nursing facility services.

And,

(Com. Sub. for H. B. No. 2016), Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 27th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. No. 37), Creating Revised Uniform Arbitration Act.

(Com. Sub. for Com. Sub. for S. B. No. 88), Creating WV Clearance for Access: Registry and Employment Screening Act.

(Com. Sub. for S. B. No. 140), Amending State Administrative Procedures Act.

(Com. Sub. for S. B. No. 142), Authorizing Department of Administration promulgate legislative rules.

(Com. Sub. for S. B. No. 192), Authorizing Department of Transportation promulgate legislative rules.

(S. B. No. 195), Authorizing Conservation Committee promulgate legislative rule relating to financial assistance programs.

(Com. Sub. for S. B. No. 234), Relating to operation and regulation of certain water and sewer utilities owned by political subdivisions.

(Com. Sub. for S. B. No. 274), Relating to TANF program sanctions.

(Second Enrollment Com. Sub. for S. B. No. 286), Relating to compulsory immunizations of students; exemptions.

(Second Enrollment Com. Sub. for S. B. No. 287), Providing posthumous high school diplomas.

(S. B. No. 295), Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

(S. B. No. 304), Relating to farmers markets.

(S. B. No. 312), Relating to disqualification of general election nominees for failure to file campaign finance statements.

(Com. Sub. for S. B. No. 316), Exempting new veteran-owned business from certain fees paid to Secretary of State.

(Com. Sub. for S. B. No. 323), Relating to Municipal Home Rule Pilot Program.

(S. B. No. 363), Establishing maximum rates and service limitations for reimbursement of health care services by Court of Claims.

(Third Enrollment S. B. No. 389), Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

(Com. Sub. for S. B. No. 393), Reforming juvenile justice system.

(S. B. No. 425), Providing WVU, MU and WVSOM more authority to invest assets.

(Second Enrollment Com. Sub. for S. B. No. 435), Creating WV Sheriffs' Bureau of Professional Standards.

(Com. Sub. for S. B. No. 436), Relating to State Athletic Commission.

(Com. Sub. for S. B. No. 439), Relating to higher education personnel.

(S. B. No. 447), Allowing issuance of diploma by public, private or home school administrator.

(Com. Sub. for S. B. No. 453), Relating to motor vehicle dealers, distributors, wholesalers and manufacturers.

(S. B. No. 518), Permitting county and municipal economic development authorities invest certain funds.

(Com. Sub. for S. B. No. 523), Creating Alcohol and Drug Overdose Prevention and Clemency Act.

(Second Enrollment Com. Sub. for S. B. No. 529), Relating to PERS, SPRS and TRS benefits and costs.

(Com. Sub. for S. B. No. 542), Clarifying provisions of Consumer Credit and Protection Act relating to debt collection.

(S. B. No. 574), Relating to liquor sales by distilleries and mini-distilleries.

(S. B. No. 577), Allowing higher education governing boards invest certain funds with nonprofit foundations.

(S. B. No. 582), Relating to Herbert Henderson Office of Minority Affairs.

(S. B. No. 584), Transferring Cedar Lakes Camp and Conference Center to private, nonstock, not-for-profit corporation.

(Com. Sub. for H. B. No. 2005), Relating to alternative programs for the education of teachers.

(Com. Sub. for H. B. No. 2011), Relating to disbursements from the Workers' Compensation Fund where an injury is self inflicted or intentionally caused by the employer.

(H. B. No. 2161), Adopting the Uniform Act on Prevention of and Remedies for Human

Trafficking.

(Com. Sub. for H. B. No. 2233), Requiring that legislative rules be reviewed five years after initial approval by the Legislative Rule-Making Review Committee and the Legislative Auditor's Office.

(Com. Sub. for H. B. No. 2478), Relating to public school finance.

(Com. Sub. for H. B. No. 2549), Relating to the preparation and publication of county financial statements.

(H. B. No. 2663), Creating the Rehabilitation Services Vending Program Fund.

(Com. Sub. for H. B. No. 2810), Implementing the West Virginia Property Rescue Initiative to reduce the number of properties posing a threat to public health and safety.

And,

(Com. Sub. for H. B. No. 2878), Creating a one-stop electronic business portal in West Virginia.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 30th day of March, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. No. 2515), Relating to elk restoration.

(Com. Sub. for H. B. No. 2527), Creating a Task Force on Prevention of Sexual Abuse of Children; "Erin Merryn's Law".

(H. B. No. 2627), Providing protection against property crimes committed against coal mines, utilities and other industrial facilities.

(Second Enrollment Com. Sub. for H. B. No. 2648), Allowing authorized entities to maintain a stock of epinephrine auto-injectors to be used for emergency.

(Second Enrollment H. B. No. 2664), Creating "Andrea and Willy's Law"; increasing certain penalties for driving under the influence of alcohol, controlled substances or drugs.

(Com. Sub. for H. B. No. 2674), Making home schooled students eligible for a PROMISE scholarship without taking the GED test.

(Com. Sub. for H. B. No. 2793), Relating to exemptions from mandatory school attendance.

(Com. Sub. for H. B. No. 2811), Deleting obsolete provisions regarding the Physicians' Mutual Insurance Company.

(Com. Sub. for H. B. No. 2840), Providing an alternative plan to make up lost days of instruction.

(Com. Sub. for H. B. No. 2867), Requiring recommendations for higher education course credit transfer.

(H. B. No. 2877), Relating to electronic filing of tax returns and electronic funds transfers in payment of taxes.

(Second Enrollment H. B. No. 2880), Creating an addiction treatment pilot program.

(H. B. No. 2926), Relating to deferral charges in connection with a consumer credit sale or consumer loan.

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And,

(Com. Sub. for H. B. No. 3006), Relating to the determination of the adjusted rate established by the Tax Commissioner for the administration of tax deficiencies.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 1st day of April, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. No. 2492), Repealing the requirement that an entity charging admission to view certain closed circuit telecast or subscription television events needs to obtain a permit from the State Athletic Commission.

And,

(H. B. No. 2726), Clarifying choice of laws issues in product's liability actions.

Respectfully submitted,

Mark R. Maynard,

Chair, Senate Committee.

John B. McCuskey,

Chair, House Committee.

Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day's Journal communications showing the Governor's action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

The Clerk then presented communications from His Excellency, the Governor, advising that on March 18, 2015, he had approved **Second Enrollment Enr. Committee Substitute for Senate Bill No. 6, Enr. Senate Bill No. 89, Enr. Senate Bill No. 283, Enr. Senate Bill No. 292, Enr. Senate Bill No. 322, Enr. Senate Bill No. 332, Enr. Committee Substitute for Senate Bill No. 366, Enr. Committee Substitute for Senate Bill No. 373, Enr. Senate Bill No. 411, Enr. Senate Bill No. 454 and Enr. Committee Substitute for Committee Substitute for Senate Bill No. 455**; on March 20, 2015, he had approved **Enr. House Bill No. 3020 and Enr. House Bill No. 3021**; on March 24, 2015, he had approved **Enr. Senate Bill No. 106, Enr. Committee Substitute for Senate Bill No. 242, Enr. Committee Substitute for Committee Substitute for Senate Bill No. 243, Enr. Committee Substitute for Senate Bill No. 248, Enr. Senate Bill No. 250, Enr. Committee Substitute for Senate Bill No. 261, Enr. Senate Bill No. 267, Enr. Committee Substitute for Committee Substitute for Senate Bill No. 273, Enr. Committee Substitute for Committee Substitute for Senate Bill No. 336, Enr. Committee Substitute for Senate Bill No. 342, Enr. Committee Substitute for Committee Substitute for Senate Bill No. 352, Enr. Committee Substitute for Senate Bill No. 390, Enr. Senate Bill No. 403, Enr. Committee Substitute for Senate Bill No. 407, Enr. Senate Bill No. 412, Enr. Senate Bill No. 415, Enr. Senate Bill No. 418, Enr. Committee Substitute for Senate Bill No. 430, Enr. Senate Bill No. 479, Enr. Senate Bill No. 489, Enr. Senate Bill No. 502, Enr. Senate Bill No. 514, Enr. Senate Bill No. 515, Enr. Senate Bill No. 532, Enr. Senate Bill No. 545, Enr.**

Senate Bill No. 559 and Enr. Senate Bill No. 578; on March 25, 2015, he had approved **Enr. Committee Substitute for Senate Bill No. 249, Second Enrollment Enr. Committee Substitute for House Bill No. 2010, Enr. Committee Substitute for House Bill No. 2053, Enr. Committee Substitute for House Bill No. 2098, Enr. Committee Substitute for House Bill No. 2148, Enr. House Bill No. 2213, Enr. House Bill No. 2224, Enr. Committee Substitute for House Bill No. 2462, Enr. Committee Substitute for House Bill No. 2493, Enr. Committee Substitute for House Bill No. 2505, Enr. Committee Substitute for House Bill No. 2507, Enr. Committee Substitute for House Bill No. 2550, Enr. Committee Substitute for House Bill No. 2557, Enr. Committee Substitute for House Bill No. 2562, Enr. House Bill No. 2598, Enr. House Bill No. 2606, Enr. House Bill No. 2607, Enr. House Bill No. 2626, Enr. House Bill No. 2632, Enr. House Bill No. 2645, Enr. House Bill No. 2657, Enr. House Bill No. 2658, Enr. Committee Substitute for House Bill No. 2702, Enr. Committee Substitute for House Bill No. 2755, Enr. Committee Substitute for House Bill No. 2778, Enr. House Bill No. 2780, Enr. House Bill No. 2797, Enr. House Bill No. 2876, Enr. House Bill No. 2888, Enr. House Bill No. 2892, Enr. House Bill No. 2914 and Enr. Committee Substitute for House Bill No. 2939;** on March 26, 2015, he had approved **Enr. Senate Bill No. 318, Enr. Committee Substitute for Senate Bill No. 344, Enr. Senate Bill No. 370, Enr. Committee Substitute for Senate Bill No. 409, Enr. Committee Substitute for Senate Bill No. 421, Enr. Committee Substitute for Senate Bill No. 488, Enr. Senate Bill No. 581, Enr. Senate Bill No. 583, Enr. Committee Substitute for House Bill No. 2139, Enr. House Bill No. 2140, Enr. House Bill No. 2370, Enr. Committee Substitute for House Bill No. 2381, Enr. Committee Substitute for House Bill No. 2432 and Enr. House Bill No. 2535;** on March 27, 2015, he had approved **Enr. Committee Substitute for Committee Substitute**

for Senate Bill No. 60, Enr. Committee Substitute for Committee Substitute for Senate Bill No. 277, Enr. Senate Bill No. 310, Enr. Senate Bill No. 360, Enr. Committee Substitute for Senate Bill No. 423, Enr. Committee Substitute for Senate Bill No. 486, Enr. House Bill No. 2100, Enr. House Bill No. 2272, Enr. Committee Substitute for House Bill No. 2377, Enr. Committee Substitute for House Bill No. 2502, Enr. Committee Substitute for House Bill No. 2586, Enr. House Bill No. 2608, Enr. House Bill No. 2625, Enr. Committee Substitute for House Bill No. 2652, Enr. House Bill No. 2884, Enr. Committee Substitute for House Bill No. 2968 and Enr. House Bill No. 2976; on March 31, 2015, he had approved Enr. Committee Substitute for Senate Bill No. 12, Enr. Committee Substitute for Senate Bill No. 37, Enr. Committee Substitute for Senate Bill No. 140, Enr. Committee Substitute for Senate Bill No. 192, Enr. Senate Bill No. 195, Enr. Committee Substitute for Senate Bill No. 234, Enr. Committee Substitute for Senate Bill No. 274, Second Enrollment Enr. Committee Substitute for Senate Bill No. 286, Second Enrollment Enr. Committee Substitute for Senate Bill No. 287, Enr. Senate Bill No. 304, Enr. Senate Bill No. 312, Enr. Committee Substitute for Senate Bill No. 316, Enr. Committee Substitute for Senate Bill No. 323, Enr. Senate Bill No. 363, Enr. Senate Bill No. 425, Second Enrollment Enr. Committee Substitute for Senate Bill No. 435, Enr. Senate Bill No. 481, Enr. Senate Bill No. 483, Enr. Senate Bill No. 510, Enr. Committee Substitute for Senate Bill No. 542, Enr. Senate Bill No. 574, Enr. Committee Substitute for House Bill No. 2011, Enr. Committee Substitute for House Bill No. 2128, Enr. Committee Substitute for House Bill No. 2233, Enr. Committee Substitute for House Bill No. 2266, Enr. Committee Substitute for House Bill No. 2283, Enr. Committee Substitute for House Bill No. 2478, Enr. Committee Substitute for House Bill No. 2496, Enr. Committee Substitute for House Bill No. 2549,

Enr. Committee Substitute for House Bill No. 2867, Second Enrollment Enr. House Bill No. 2880 and Enr. Committee Substitute for House Bill No. 2902; on April 1, 2015, he had approved **Enr. Senate Bill No. 295, Third Enrollment Enr. Senate Bill No. 389, Enr. Committee Substitute for Senate Bill No. 439, Enr. Committee Substitute for House Bill No. 2395, Enr. House Bill No. 2461, Enr. Committee Substitute for House Bill No. 2527, Enr. Committee Substitute for House Bill No. 2536, Enr. House Bill No. 2595, Enr. Committee Substitute for House Bill No. 2636, Enr. Committee Substitute for House Bill No. 2662, Enr. House Bill No. 2663, Second Enrollment Enr. House Bill No. 2664, Enr. House Bill No. 2733, Enr. Committee Substitute for House Bill No. 2790, Enr. Committee Substitute for House Bill No. 2810, Enr. Committee Substitute for House Bill No. 2811, Enr. House Bill No. 2877 and Enr. Committee Substitute for House Bill No. 2878;** on April 2, 2015, he had approved **Enr. Committee Substitute for Committee Substitute for Senate Bill No. 88, Enr. Committee Substitute for Senate Bill No. 142, Enr. Committee Substitute for Senate Bill No. 170, Enr. Committee Substitute for Senate Bill No. 199, Enr. Committee Substitute for Senate Bill No. 315, Enr. Committee Substitute for Senate Bill No. 393, Enr. Committee Substitute for Senate Bill No. 436, Enr. Senate Bill No. 447, Enr. Senate Bill No. 518, Enr. Committee Substitute for Senate Bill No. 523, Enr. Senate Bill No. 576, Enr. Senate Bill No. 577, Enr. Committee Substitute for House Bill No. 2005, Enr. House Bill No. 2492, Enr. Committee Substitute for House Bill No. 2515, Second Enrollment Enr. Committee Substitute for House Bill No. 2648, Enr. House Bill No. 2726, Enr. House Bill No. 2926, Enr. House Bill No. 2931, Enr. Committee Substitute for House Bill No. 2999 and Enr. Committee Substitute for House Bill No. 3006;** and on April 3, 2015, he had approved **Enr. Committee Substitute for Senate Bill No. 182, Enr. Committee Substitute for Senate**

Bill No. 284, Enr. Committee Substitute for Senate Bill No. 453 and Second Enrollment

Enr. Committee Substitute for Senate Bill No. 529.

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 20, 2015

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2766, passed March 14, 2015, approved with the following objections:

My first objection to the Bill is contained in the title of the bill, on pages 1-2, which states:

“AN ACT expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$5,650,000 from the Joint Expenses, fund 0175, fiscal year 2008, organization 2300, appropriation 64200, and in the amount of \$1,850,000 from the Joint Expenses, fund 0175, fiscal year 2009, organization 2300, appropriation 64200, and in the amount of \$75,365.64 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 11400, and in the amount of \$67,553.27 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 23800, and

in the amount of \$122,113 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 23800, and in the amount of \$212,500 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 61400, and in the amount of \$635,179.58 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 23800, and in the amount of \$346,521.90 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 26300, and in the amount of \$1,207,149.67 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400, and in the amount of \$34,378.53 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 11400, and in the amount of \$397,276.39 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 23800, and in the amount of \$1,272,323.47 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400, and in the amount of \$2,227,821.66 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400, and in the amount of \$901,816.89 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, appropriation 11400, and in the amount of \$7,500,000 from the Treasurer’s Office - Special Income Tax Refund Reserve Fund, fund 1313, fiscal year 2015, organization 1300.”

The expirations in this bill are intended to help fill an anticipated budget gap in the current fiscal year, fiscal year 2015. Expiring these funds would reduce the amount of a planned mid-year appropriation reduction, but some of the funds expired from the Governor’s Office - Civil

Contingent Fund in this bill have previously been committed and are not available for expiration. Furthermore, the expiration from the Special Income Tax Refund Reserve Fund is not necessary and could potentially delay the payment of personal income tax refunds. The Tax Commissioner already has the authority to draw from this fund to ensure the timely payment of tax refunds; something not guaranteed if the funds are expired into the General Revenue Fund.

Therefore, on pages 1-2, I am deleting the language, “, and in the amount of \$75,365.64 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 11400, and in the amount of \$67,553.27 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 23800, and in the amount of \$122,113 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 23800, and in the amount of \$212,500 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 61400, and in the amount of \$635,179.58 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 23800, and in the amount of \$346,521.90 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 26300, and in the amount of \$1,207,149.67 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400, and in the amount of \$34,378.53 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 11400, and in the amount of \$397,276.39 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 23800, and in the amount of \$1,272,323.47 from the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400, and in the amount of \$2,227,821.66 from the Governor’s Office -

Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400, and in the amount of \$901,816.89 from the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, appropriation 11400, and in the amount of \$7,500,000 from the Treasurer's Office - Special Income Tax Refund Reserve Fund, fund 1313, fiscal year 2015, organization 1300'.

My second objection to the Bill is contained on pages 4-5, which states:

“That the balance of the funds available for expenditure in the fiscal year ending June 30, 2015, in the Joint Expenses, fund 0175, fiscal year 2008, organization 2300, appropriation 64200, be decreased by expiring the amount of \$5,650,000, and in the Joint Expenses, fund 0175, fiscal year 2009, organization 2300, appropriation 64200, be decreased by expiring the amount of \$1,850,000, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 11400, be decreased by expiring the amount of \$75,365.64, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 23800, be decreased by expiring the amount of \$67,553.27, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 23800, be decreased by expiring the amount of \$122,113, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 61400, be decreased by expiring the amount of \$212,500, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 23800, be decreased by expiring the amount of \$635,179.58, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 26300, be decreased by expiring the amount of \$346,521.90, and in the Governor's Office - Civil Contingent Fund, fund 0105,

fiscal year 2004, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,207,149.67, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 11400, be decreased by expiring the amount of \$34,378.53, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 23800, be decreased by expiring the amount of \$397,276.39, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,272,323.47, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400, be decreased by expiring the amount of \$2,227,821.66, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, appropriation 11400, be decreased by expiring the amount of \$901,816.89, and in the Treasurer’s Office - Special Income Tax Refund Reserve Fund, fund 1313, fiscal year 2015, organization 1300, be decreased by expiring the amount of \$7,500,000, all to the unappropriated balance of the State Fund, General Revenue, to be available during the fiscal year ending June 30, 2015.”

Having deleted the language in the title of the bill in objection one above, on pages 4-5, I am deleting the language, “and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 11400, be decreased by expiring the amount of \$75,365.64, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2002, organization 0100, appropriation 23800, be decreased by expiring the amount of \$67,553.27, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100, appropriation 23800, be decreased by expiring the amount of \$122,113, and in the Governor’s Office - Civil Contingent Fund, fund 0105, fiscal year 2003, organization 0100,

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appropriation 61400, be decreased by expiring the amount of \$212,500, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 23800, be decreased by expiring the amount of \$635,179.58, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 26300, be decreased by expiring the amount of \$346,521.90, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,207,149.67, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 11400, be decreased by expiring the amount of \$34,378.53, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 23800, be decreased by expiring the amount of \$397,276.39, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,272,323.47, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400, be decreased by expiring the amount of \$2,227,821.66, and in the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, appropriation 11400, be decreased by expiring the amount of \$901,816.89, and in the Treasurer's Office - Special Income Tax Refund Reserve Fund, fund 1313, fiscal year 2015, organization 1300, be decreased by expiring the amount of \$7,500,000.”

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2766.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 20, 2015

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2769, passed March 14, 2015, approved with the following objections:

My first objection to the Bill is contained in the title of the bill, on pages 1-3, which states:

“AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$1,500,000 from the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 59200, and in the amount of \$400,103.30 from the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, appropriation 25800, and in the amount of \$3,861,297 from the Department of Administration, Risk and Insurance

Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2015, organization 0218, and in the amount of \$1,329.28 from the Department of Health and Human Resources, Division of Health, Uniform Health Professional Data Collection Systems Fund, fund 5109, fiscal year 2015, organization 0506, and in the amount of \$478.81 from the Department of Health and Human Resources, Division of Health, Commonly Based Fetal and Infant Mortality Review Fund, fund 5131, fiscal year 2015, organization 0506, and in the amount of \$18,609.27 from the Department of Health and Human Resources, Division of Health, Claude Worthington Benedum Foundation Fund, fund 5132, fiscal year 2015, organization 0506, and in the amount of \$2,500 from the Department of Health and Human Resources, Division of Health, Behavioral Health Clearing Fund, fund 5151, fiscal year 2015, organization 0506, and in the amount of \$13,193.90 from the Department of Health and Human Resources, Division of Health, Special Education Title I Fund, fund 5161, fiscal year 2015, organization 0506, and in the amount of \$45 from the Department of Health and Human Resources, Division of Health, Rural Health Networking Project Fund, fund 5184, fiscal year 2015, organization 0506, and in the amount of \$1,400,000 from the Department of Health and Human Resources, Division of Health, Vital Statistics Improvement Fund, fund 5225, fiscal year 2015, organization 0506, and in the amount of \$6,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Fund, fund 5375, fiscal year 2015, organization 0507, and in the amount of \$4,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Information Network Account, fund 5380, fiscal year 2015, organization 0507, and in the amount of \$2,000,000 from the Department of Health and Human

Resources, West Virginia Health Care Authority - West Virginia Health Care Authority Revolving Loan Fund, fund 5382, fiscal year 2015, organization 0507, and in the amount of \$4,976.37 from the Department of Health and Human Resources, Division of Human Services, Special County General Relief Fund, fund 5054, fiscal year 2015, organization 0511, and in the amount of \$18,118.01 from the Department of Health and Human Resources, Division of Human Services, Individual and Family Grant Program, fund 5055, fiscal year 2015, organization 0511, and in the amount of \$251,657.05 from the Department of Health and Human Resources, Division of Human Services, TRIP Fund, fund 5070, fiscal year 2015, organization 0511, and in the amount of \$4,000,000 from the Department of Health and Human Resources, Division of Human Services, Medicaid Fraud Control Fund, fund 5141, fiscal year 2015, organization 0511, and in the amount of \$223,310.69 from the Department of Health and Human Resources, Division of Human Services - Marriage Education Fund, fund 5490, fiscal year 2015, organization 0511, and in the amount of \$16,700,000 from the Department of Revenue, Insurance Commissioner, fund 7152, fiscal year 2015, organization 0704, and all subject to the condition that bonds authorized in section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beach Fork State Park have been sold.”

The requirement that the expirations contained in this bill are contingent on the sale of lottery revenue bonds is problematic for several reasons. First, while directing the issuance of the bonds, the Legislature did not include an appropriation from the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund for the servicing of the debt evidenced by the issuance of said bonds in either a supplemental appropriations bill or the Budget Bill. Second, there are

questions regarding the constitutionality of the directive language included in the appropriations bill, attempting to direct the issuance of said bonds. And finally, the issuance of the bonds directed in the language presents the possibility that the bonds issued will not attain the historical high and favorable bond rating which prior lottery revenue bonds have enjoyed, and further presents the possibility that previously issued and already outstanding lottery bonds could be downgraded from their current ratings.

Therefore, on page 3, I am deleting the language, “, and all subject to the condition that bonds authorized in section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beach Fork State Park have been sold”.

My second objection to the Bill is contained on pages 5-7, which states:

“That the balance of the funds available for expenditure in the fiscal year ending June 30, 2015, in the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 59200 be decreased by expiring the amount of \$1,500,000, and in the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, appropriation 25800, be decreased by expiring the amount of \$400,103.30, and in the Department of Administration, Risk and Insurance Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2015, organization 0218, be decreased by expiring the amount of \$3,861,297, and in the Department of Health and Human Resources, Division of Health, Uniform Health Professional Data Collection Systems Fund, fund 5109, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$1,329.28, and in the Department of Health and Human Resources, Division of Health, Commonly Based Fetal and Infant Mortality Review Fund, fund 5131, fiscal year 2015, organization 0506, be

decreased by expiring the amount of \$478.81, and in the Department of Health and Human Resources, Division of Health, Claude Worthington Benedum Foundation Fund, fund 5132, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$18,609.27, Department of Health and Human Resources, Division of Health, Behavioral Health Clearing Fund, fund 5151, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$2,500, and in the Department of Health and Human Resources, Division of Health, Special Education Title I Fund, fund 5161, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$13,193.90, and in the Department of Health and Human Resources, Division of Health, Rural Health Networking Project Fund, fund 5184, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$45, and in the Department of Health and Human Resources, Division of Health, Vital Statistics Improvement Fund, fund 5225, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$1,400,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Fund, fund 5375, fiscal year 2015, organization 0507, be decreased by expiring the amount of \$6,000,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Information Network Account, fund 5380, fiscal year 2015, organization 0507, be decreased by expiring the amount of \$4,000,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Care Authority Revolving Loan Fund, fund 5382, fiscal year 2015, organization 0507, be decreased by expiring the amount of \$2,000,000, and in the Department of Health and Human Resources, Division of Human Services, Special County General Relief Fund, fund

5054, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$4,976.37, and in the Department of Health and Human Resources, Division of Human Services, Individual and Family Grant Program, fund 5055, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$18,118.01, and in the Department of Health and Human Resources, Division of Human Services, TRIP Fund, fund 5070, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$251,657.05, and in the Department of Health and Human Resources, Division of Human Services, Medicaid Fraud Control Fund, fund 5141, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$4,000,000, and in the Department of Health and Human Resources, Division of Human Services - Marriage Education Fund, fund 5490, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$223,310.69, and in the Department of Revenue, Insurance Commissioner, fund 7152, fiscal year 2015, organization 0704, be decreased by expiring the amount of \$16,700,000, all to the unappropriated surplus balance of the State Fund, General Revenue, to be available for appropriation during the fiscal year ending June 30, 2015: *Provided*, That the expiration of funds provided herein shall not occur until such time as the bonds authorized by the provisions of section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beech Fork State Park have been sold.”

Having deleted the language relating to the sale of lottery revenue bonds in objection two above, on page 7, I am deleting the language, “: *Provided*, That the expiration of funds provided herein shall not occur until such time as the bonds authorized by the provisions of section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon

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State Park and Beech Fork State Park have been sold”.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2769.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 20, 2015

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2772, passed March 14, 2015, approved with the following objections:

My first objection to the Bill is contained in the title of the bill, on pages 1-2, which states:

“AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$339,000 from

the Department of Agriculture, fund 0131, fiscal year 2012, organization 1400, appropriation 11900, and in the amount of \$411,000 from the Department of Agriculture, fund 0131, fiscal year 2013, organization 1400, appropriation 11900, and in the amount of \$315,496.80 from the Attorney General, fund 0150, fiscal year 2013, organization 1500, appropriation 72500, and in the amount of \$210,268 from the Attorney General, fund 0150, fiscal year 2013, organization 1500, appropriation 77900, and in the amount of \$774,644.65 from the Attorney General, fund 0150, fiscal year 2014, organization 1500, appropriation 26000, and in the amount of \$1,000,000 from the Auditor's Office - Purchasing Card Administration Fund, fund 1234, fiscal year 2015, organization 1200, and in the amount of \$3,410,629 from the Treasurer's Office - Flood Insurance Tax Fund, fund 1343, fiscal year 2015, organization 1300, and in the amount of \$700,000 from the Attorney General - Antitrust Enforcement Fund, fund 1507, fiscal year 2015, organization 1500, and in the amount of \$750,000 from the Secretary of State - General Administrative Fees Account, fund 1617, fiscal year 2015, organization 1600.”

The amount of expiration from the Secretary of State's General Administrative Fees Account could potentially affect the ability of the Secretary of State's Office to efficiently administer the duties the office is charged. Therefore, I am reducing the amount in the language on page 2 from \$750,000 to \$500,000.

My second objection to the Bill is contained on pages 2-3, which states:

“That the balance of the funds available for expenditure in the fiscal year ending June 30, 2015, in the Department of Agriculture, fund 0131 fiscal year 2012, organization 1400, appropriation 11900, be decreased by expiring the amount of \$339,000, and in the Department of Agriculture, fund 0131, fiscal year 2013, organization 1400, appropriation

11900, be decreased by expiring the amount of \$411,000, and in the Attorney General, fund 0150, fiscal year 2013, organization 1500, appropriation 72500, be decreased by expiring the amount of \$315,496.80, and in the Attorney General, fund 0150, fiscal year 2013, organization 1500, appropriation 77900, be decreased by expiring the amount of \$210,268, and in the Attorney General, fund 0150, fiscal year 2014, organization 1500, appropriation 26000, be decreased by expiring the amount of \$774,644.65, and in the Auditor's Office - Purchasing Card Administration Fund, fund 1234, fiscal year 2015, organization 1200, be decreased by expiring the amount of \$1,000,000, and in the Treasurer's Office - Flood Insurance Tax Fund, fund 1343, fiscal year 2015, organization 1300, be decreased by expiring the amount of \$3,410,629, and in the Attorney General - Antitrust Enforcement Fund, fund 1507, fiscal year 2015, organization 1500, be decreased by expiring the amount of \$700,000, and in the Secretary of State - General Administrative Fees Account, fund 1617, fiscal year 2015, organization 1600, in the amount of \$750,000, all to the unappropriated surplus balance of the State Fund, General Revenue, to be available for appropriation during the fiscal year ending June 30, 2015.”

Having reduced the amount of expiration for the Secretary of State - General Administrative Fees Account in the title of the bill in objection one above, I am reducing the amount in the language on page 3 from \$750,000 to \$500,000.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2772.

Sincerely,

Earl Ray Tomblin

Governor.

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The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 20, 2015

As stewards of taxpayer money, we must be committed to fiscal responsibility and not commit one-time surplus funds in disregard of current budget needs. Therefore, pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled House Bill No. 3022, passed March 14, 2015, approved with the following objections:

My first objection to the Bill is contained in Item 46, page 3, line 1, which states:

09700 \$

500,000”

The above appropriation includes new funding for the State FFA-FHA Camp and Conference Center. Cuts are never easy, but are necessary in our State’s fiscal situation. Therefore, I am reducing the supplemental appropriation by the amount of \$500,000 to \$0.

My second objection to the Bill is contained in Item 52, page 4, line 1, which states:

09700 \$

The above appropriation includes new funding for the West Virginia Schools for the Deaf and the Blind. As stewards of public funds, we must be committed to fiscal responsibility and not commit one-time surplus funds in disregard of current budget needs. Therefore, I am reducing the appropriation by the amount of \$1,500,000 to \$0.

My third objection to the Bill is contained in Item 107, page 5, lines 1-3, which state:

	Osteopathic	
	Medicine	-
	Surplus	(R)
	17299	\$
	500,000”	

The above appropriation includes new funding for the West Virginia School of Osteopathic Medicine. At a time when we are facing ongoing budget challenges, we must be prudent in spending taxpayer dollars. Therefore, I am reducing the supplemental appropriation amount of \$500,000 to \$0.

My fourth objection to the Bill is contained in Item 114, page 6, lines 1-2, which state:

(R)	44199	\$
	500,000”	

The above appropriation includes new funding for West Virginia State University. As good stewards of the taxpayer’s dollars, there are times when we must do more with less. Therefore, I am reducing the supplemental appropriation amount of \$500,000 to \$0.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled House

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Bill No. 3022.

Sincerely,

Earl Ray Tomblin

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 23, 2015

Due to a decline in projected revenues and a long-projected increase in the state match required for Medicaid expenses, this year's budget was one of the most challenging to deal with in years.

I believe my recommended budget was solid and fundamentally sound.

I proposed a revised budget for FY 2016 relying on \$15,528,000 of revenue from the Rainy Day Fund. My proposal tapped the Rainy Day Fund to fill short-term budget gaps. With over \$862 million in cash, we have a sufficient amount in our Rainy Day Fund to deal with this shortfall.

As one of the creators of the State's reserve fund, I understand it was established for limited-term shortfalls, like this one.

My budget proposal to use \$15.5 million for Medicaid expenses would have assured that the Rainy Day Fund would have remained above the 15 percent threshold recommended by Wall Street rating agencies and by bond experts to continue the State's favorable bond ratings.

House Bill 2016 built additional expenses into the budget that increase future fiscal year budgets. These increase the amount of revenue needed to balance the budget and make future budget gaps deeper.

As stewards of taxpayer money, we must be committed to fiscal responsibility and not commit one-time surplus funds to increase on-going spending. Therefore, I have vetoed more than \$11 million from House Bill 2016. In doing so:

(1) Utilization of the Rainy Day Fund is limited to \$14.8 million in FY 2016.

(3) The State will continue to receive the best interest rate on debt transactions.

Some of these reductions curb grants and services and, while they are difficult, they are necessary to responsibly manage future year budgets without raising taxes.

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2016, passed March 18, 2015, approved with the following objections:

My first objection to the Bill is contained in Item 35, page 38, line 22, which states:

“WV High Tech Consortium..... 39100 300,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$101,094 to \$198,906.

My second objection to the Bill is contained in Item 35, page 38, lines 23 and 24, which state:

llent.

“Regional Contracting Assistance Center.....41800 225,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$16,785 to \$208,215.

My third objection to the Bill is contained in Item 46, page 45, line 3, which states:

“Unclassified 09900.....500,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$500,000 to \$0, which maintains the FY 2015 funding level for this fund.

My fourth objection to the Bill is contained in Item 47, page 47, line 27, which states:

“Hospitality Training..... 60000 319,005”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$54,032 to \$264,973.

My fifth objection to the Bill is contained in Item 47, page 48, line 58, which states:

“Educational Program Allowance.....99600 535,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$18,750 to \$516,250.

My sixth objection to the Bill is contained in Item 47, page 49, line 95 through line 103, which states:

“From the above appropriation for Educational Program Allowance (fund 0313,

appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; and \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; and \$85,000 is for Project Based Learning in STEM fields.”

Having reduced the appropriation for Education Program Allowance in objection five above, I am reducing the amount in the language on page 49, line 102, from \$85,000 to \$66,250.

My seventh objection to the Bill is contained in Item 49, page 51, line 15, which states:

“Adjustments..... 718,168”

My budget recommendations and provisions I recommended in House Bill 2478 clarified that the adjustments to Local Share for Payment in Lieu of Taxes and for assessment errors were to be included in the School Aid Formula. Since those provisions did not pass, I believe we should maintain the established practice of not including the Adjustments line in the School Aid Formula. Therefore, I am reducing the appropriation by the amount of \$718,168 to \$0.

My eighth objection to the Bill is contained in Item 53, page 54, line 15, which states:

“Educational Enhancements..... 69500 575,000”

This is a significant increase over the FY 2015 appropriation and my FY 2016 recommendation. At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$375,000 to \$200,000.

My ninth objection to the Bill is contained in Item 53, page 55, line 29 through line 33, which states:

“Included in the above appropriation for Educational Enhancements (fund 0294,

appropriation 69500) is \$125,000 for Reconnecting McDowell - Save the Children, \$375,000 for Save the Children programs in Cabell, Roane, Calhoun and Mason counties, and \$75,000 for the Clay Center.”

Having reduced the appropriation to Educational Enhancements in objection one above, I am deleting the language on page 55, line 31 through line 33, “, \$375,000 for Save the Children programs in Cabell, Roane, Calhoun and Mason counties,”.

My tenth objection to the Bill is contained in Item 53, page 55, line 34 through line 36, which states:

“From the above appropriation for S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) \$125,000 is for The Challenger Learning Center at Wheeling Jesuit University.”

This language redirects funds from the S.T.E.M Education and Grant Program that I recommended in my Budget Bill. Therefore, I am deleting the language in its entirety, page 55, line 34 through line 36.

My eleventh objection to the Bill is contained in Item 62, page 63, line 29, which states:

“Primary Care Support..... 62800 6,000,000”

With the expansion of the Medicaid Program, more West Virginians are eligible for health coverage than previously. This, in turn, should reduce the reliance on free clinics and will reduce uncompensated care. At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid growth in the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$729,572 to \$5,270,428.

My twelfth objection to the Bill is contained in Item 62, page 63, line 32, which states:

“Health Right Free Clinics..... 72700 3,000,000”

With the expansion of the Medicaid Program, more West Virginians are eligible for health coverage than previously. This, in turn, should reduce the reliance on free clinics and will reduce uncompensated care. Cuts are never easy, but are necessary in our State’s financial situation. Therefore, I am reducing the appropriation by the amount of \$250,000 to \$2,750,000.

My thirteenth objection to the Bill is contained in Item 66, page 71, lines 56 and 57, which state:

“Children’s Trust Fund - Transfer.....95100 300,000”

My recommended FY 2016 budget included an appropriation of \$220,000 for this line item. There is an existing balance available in the Children’s Trust Fund that can be utilized to offset the effects of this reduction. At a time when we are facing ongoing budget challenges, it is imperative that a proactive approach be used to reduce base budget spending to better position the State to address anticipated budget gaps. Therefore, I am reducing the appropriation by the amount of \$80,000 to \$220,000.

My fourteenth objection to the Bill is contained in Item 66, pages 71 and 72, line 75 through line 80, which states:

“Included in the above appropriation for Medical Services (fund 0403, appropriation 18900) is an additional \$1,000,000 to be matched with federal dollars, the sums of which shall be applied toward the enhancement of reimbursement rates for nursing homes for services provided in accordance with the Medicaid State Plan.”

Having reduced the appropriation for Medical Services in objection 45 below, I am deleting the language in its entirety, pages 71 and 72, line 75 through line 80.

My fifteenth objection to the Bill is contained in Item 74, page 81, lines 1 and 2, which state:

“Personal Services and Employee Benefits.....00100 \$ 59,511,081”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and

prudent approach be taken to avoid building the State’s base budget. The State Police have historically been able to transfer extra funds from Personal Services to other lines within their budget. At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be used to reduce growth of the base budget. Therefore, I am reducing the appropriation by the amount of \$511,081 to \$59,000,000.

My sixteenth objection to the Bill is contained in Item 74, page 81, line 6, which states:

“Vehicle Purchase.....45100 2,377,614”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$377,614 to \$2,000,000.

My seventeenth objection to the Bill is contained in Item 74, page 81, lines 13 and 14, which state:

“Capital Outlay and Maintenance (R).....75500 2,250,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to evaluate facility needs and not over commit our resources. Therefore, I am reducing the appropriation by the amount of \$2,000,000 to \$250,000.

My eighteenth objection to the Bill is contained in Item 88, page 92, lines 1 and 2, which state:

“Personal Services and Employee Benefits.....00100 \$ 1,876,828”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$75,000 to \$1,801,828.

My nineteenth objection to the Bill is contained in Item 88, page 92, line 3, which states:

“Unclassified 09900.....200,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$180,000 to \$20,000.

My twentieth objection to the Bill is contained in Item 88, page 92, line 6, which states:

“Veterans’ Field Offices.....22800 288,345”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$20,000 to \$268,345.

My twenty-first objection to the Bill is contained in Item 88, page 92, line 7, which states:

“Veterans’ Nursing Home (R)..... 28600 6,004,913”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$63,875 to \$5,941,038.

My twenty-second objection to the Bill is contained in Item 88, page 92, lines 10 and 11, which state:

“Veterans’ Reeducation Assistance (R).....32900 39,502”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$10,000 to \$29,502.

My twenty-third objection to the Bill is contained in Item 88, page 92, line 12, which states:

“Veterans’ Grant Program (R).....34200 150,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing

the appropriation by the amount of \$50,000 to \$100,000.

My twenty-fourth objection to the Bill is contained in Item 88, page 92, line 18, which states:

“Veterans Cemetery..... 80800 583,263”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$210,000 to \$373,263.

My twenty-fifth objection to the Bill is contained in Item 93, page 95, lines 1 and 2, which state:

“New River Community and Technical College..... 35800 \$ 5,676,500”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$34,797 to \$5,641,703.

My twenty-sixth objection to the Bill is contained in Item 94, page 96, lines 1 and 2, which state:

“Pierpont Community and Technical College..... 93000 \$ 7,664,596”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$133,835 to \$7,530,761.

My twenty-seventh objection to the Bill is contained in Item 95, page 96, lines 1 and 2, which state:

“Blue Ridge Community and Technical College.....88500 \$ 4,949,710”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$342,166 to \$4,607,544.

My twenty-eighth objection to the Bill is contained in Item 96, page 96, lines 1 and 2, which

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state:

“West Virginia University - Parkersburg..... 47100 \$ 10,094,237”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$305,243 to \$9,788,994.

My twenty-ninth objection to the Bill is contained in Item 98, page 97, line 1 through line 3, which states:

“West Virginia Northern Community and Technical

College.....47100 \$ 7,099,616”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$24,583 to \$7,075,033.

My thirtieth objection to the Bill is contained in Item 99, page 97, line 1 through line 3, which states:

“Eastern West Virginia Community and Technical

College.....41200 \$ 1,887,174”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$5,340 to \$1,881,834.

My thirty-first objection to the Bill is contained in Item 100, page 97, lines 1 and 2, which state:

“BridgeValley Community and Technical College..... 41700 \$ 7,739,898”

As good stewards of the taxpayer’s dollars, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation

by the amount of \$19,987 to \$7,719,911.

My thirty-second objection to the Bill is contained in Item 103, page 99, lines 3 and 4, which state:

“WVU - School of Health Sciences.....17400 16,711,414”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$547,975 to \$16,163,439.

My thirty-third objection to the Bill is contained in Item 103, page 100, line 20 through line 35, which states:

“Included in the appropriation for WVU - School of Health Sciences (fund 0343, appropriation 17400) is \$2,000,000 for the School of Public Health; Graduate Medical Education; programming or research for multiple sclerosis, alzheimers, and neurosciences (including the Blanchette Rockefeller Project); and \$82,000 for the West Virginia University National Center of Excellence in Women’s Health. Appropriations for WVU - School of Health Sciences (fund 0343, appropriation 17400) used for Graduate Medical Education may be transferred to the Department of Health and Human Resources Medical Service fund (fund 5084) for the purpose of matching federal or other funds used to support graduate medical education, subject to the approval of the vice-chancellor for health sciences and the Secretary of the Department of Health and Human Resources. If approval is denied, funds bay be utilized by the respective institutions for expenditure on graduate medical education.”

Having reduced the appropriation for WVU - School for Health Sciences in objection thirty-two above, I am deleting the language in its entirety, page 100, line 20 through line 35.

the appropriation by the amount of \$164,589 to \$250,411.

My thirty-seventh objection to the Bill is contained in Item 105, page 102, line 5, which states:

“Center for Rural Health..... 37702 275,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$109,963 to \$165,037.

My thirty-eighth objection to the Bill is contained in Item 106, page 103, line 8 through line 10, which states:

“Luke Lee Listening Language and Learning Lab..... 175,000 175,000”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$70,000 to \$105,000.

My thirty-ninth objection to the Bill is contained in Item 107, page 104, lines 1 and 2, which state:

“West Virginia School of Osteopathic Medicine.....17200 \$ 7,458,334”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$450,058 to \$7,008,276.

My fortieth objection to the Bill is contained in Item 108, page 105, line 1, which states:

“Bluefield State College..... 40800 \$ 5,823,680”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$8,561 to \$5,815,119.

My forty-first objection to the Bill is contained in Item 112, page 106, line 1, which states:

“Shepherd University..... 43200 \$ 9,921,556”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$90,226 to \$9,831,330.

My forty-second objection to the Bill is contained in Item 113, page 106, line 1, which states:

“West Liberty University.....43900 \$ 8,198,329”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$1,589 to \$8,196,740.

My forty-third objection to the Bill is contained in Item 114, page 106, line 1, which states:

“West Virginia State University..... 44100 \$ 10,733,691”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$426,550 to \$10,307,141.

My forty-fourth objection to the Bill is contained in Item 235, page 165, lines 1 and 2, which state:

“Medical Services Trust Fund - Transfer.....51200 \$ 22,928,928”

While we are forced to utilize a portion of our Revenue Shortfall Reserve Fund to fund rising state Medicaid appropriations, it is critical that appropriate actions be taken to minimize the usage of the fund, which, among others, is a factor in the state’s bond rating. Early projections for next year’s FY 2017 budget show a manageable budget gap that must be addressed next year and maintaining a healthy balance in the Revenue Shortfall Reserve Fund will serve West

Virginians well.

Through the actions in this veto message, there will be additional funds available to appropriate to Medicaid at a later time. These vetoes allow the appropriation to Medicaid from the Revenue Shortfall Reserve Fund to be decreased. Therefore, I am reducing the appropriation by the amount of \$8,136,597 to \$14,792,331.

My forty-fifth objection to the Bill is contained in Item 315, page 218, line 1, which states:

“Medical Services.....18900 \$ 16,422,140”

At a time when we are facing ongoing budget challenges, it is imperative that a cautious and prudent approach be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by the amount of \$2,000,000 to \$14,422,140.

My forty-sixth objection to the Bill is contained in Section 20, page 255, line 1 through line 10, which states:

“Sec. 20. Special permissive, one-time appropriation from Revenue Shortfall Reserve Fund. -- There is hereby appropriated an amount not to exceed \$20,000,000 from the Revenue Shortfall Reserve Fund (fund 7005) for the renovation of State Capitol Complex Building 3 to provide for its use as state office space. In lieu of incurring additional state debt, bond issuance and interest expense, the Governor may at his discretion, direct the transfer of funds to the Capitol Dome and Capitol Improvements Fund (fund 2257) created under §5A-4-2, for expenditure.”

This is a use of the Revenue Shortfall Reserve Fund that is not in line with the intention of the fund and potentially sets a precedent for use of the fund contrary to purpose for which the fund was created. Therefore, I am deleting the language on page 255, line 2 through line 10, which states, “ -- There is hereby appropriated an amount not to exceed \$20,000,000 from the Revenue

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Shortfall Reserve Fund (fund 7005) for the renovation of State Capitol Complex Building 3 to provide for its use as state office space. In lieu of incurring additional state debt, bond issuance and interest expense, the Governor may at his discretion, direct the transfer of funds to the Capitol Dome and Capitol Improvements Fund (fund 2257) created under §5A-4-2, for expenditure.”

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2016.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

Veto Messages

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 20, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I

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hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 347. Law-enforcement officers throughout the state have voiced overwhelming opposition to this bill. In light of their concerns and in the interest of public safety, I believe a veto is appropriate.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 26, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill No. 2187 for a technical reason. Specifically, the bill requires the State Building Commission to develop guidelines for display of the national motto and POW-MIA flag on state buildings and properties. The State Building Commission, however, ceased to exist as of July 1, 2000. *See* W. Va. Code §5-6-1.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 26, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill No. 2571. It would allow private businesses and entities to designate minor road repair projects for the Commissioner of Highways to complete. This program is not a cost effective use of state resources. Further, it would be unduly burdensome for the Commissioner to administer. For these reasons, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 31, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I disapprove and return Enrolled Senate Bill No. 445 for the following reasons.

Signing this bill would expand the West Virginia Regional Jail and Correctional Facility Authority's (the "Authority") investment authority beyond that which is appropriate for the funds at issue. Specifically, the bill expands the Authority's investment authority for excess funds to explicitly include investing with the West Virginia Investment Management Board.

The Investment Management Board is generally focused on the long-term investment of public funds, primarily those funds needed for public retirement and pension programs. Excess funds of the Authority are not characteristic of the types of funds invested with the Investment Management Board. Rather, the Authority's excess funds are better suited for more liquid, short-term investment options, such as with the Board of Treasury Investments. Section 31-20-10 of the West Virginia Code already authorizes the Authority to invest its excess funds with the Board of Treasury Investments. Thus, Enrolled Senate Bill No. 445 is unnecessary and would

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inappropriately expand the Authority's investment authority.

For the foregoing reasons, I disapprove and return the bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

March 31, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Senate Bill No. 582.

The Herbert Henderson Office of Minority Affairs ("HHOMA") was created to fulfill a statewide mission; that is, to provide a forum to discuss the issues affecting West Virginia's minorities and to recommend strategies to lawmakers and community leaders for addressing those issues. This bill would require HHOMA, which had limited financial resources and consists of one executive director and her assistant, to establish a four year, comprehensive

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community-based pilot project focusing on public health in one neighborhood of the state.

I cannot fault the Legislature for wanting HHOMA to guide efforts for reviving Charleston's West Side neighborhood. It certainly has the energy and expertise. However, HHOMA lacks sufficient financial resources, human resources, and time to devote itself to the considerable local undertaking outlined in this bill. Further, its focus on minority issues should not be local; it should be general and statewide. For these reasons, I disapprove Enrolled Senate Bill No. 582.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for Senate Bill No. 19.

This bill changes the requirement that all county boards of education offer early childhood

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education programs five days per week. Specifically, it relaxes this requirement and allows boards to offer four day programs. One of my goals through Senate Bill No. 359, signed into law in 2013, was to ensure parents had the option to send their child to a five day per week early childhood education program, except in certain limited instances where the five day requirement is waived. The changes made in Enrolled Committee Substitute for Senate Bill No. 19 diminish the educational requirements currently in place. It takes a step backward in meeting the goals of comprehensive education reform I championed.

I believe offering five day per week programs for early childhood education is critical to meet the developmental needs of our state's students. Consequently, I must disapprove this bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I disapprove Enrolled Committee Substitute for Committee Substitute for Senate Bill No. 30 for the following reasons.

Signing this bill into law would pose a serious risk to public health. First, the bill acknowledges that consuming raw milk has inherent dangers and that it may contain “bacteria that is particularly dangerous to children, pregnant women and those with compromised immunity.” A product with these types of health risks should be subject to more supervision than merely requiring a person to release the seller from liability for such risks. Second, the bill lacks provisions regarding oversight and regulatory authority with respect to sanitation or the handling and storage of raw milk. Given the health implications of the bill, the Bureau for Public Health should have been given oversight and regulatory authority in raw milk production.

For the foregoing reasons, I disapprove Enrolled Committee Substitute for Committee Substitute for Senate Bill No. 30.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill No. 2160.

This bill would permit the West Virginia Schools for the Deaf and Blind to be eligible for all sources of funding distributed by the School Building Authority of West Virginia (“SBA”). The SBA has limited resources for funding construction and improvement projects in the public schools throughout West Virginia’s fifty-five counties. I recognize the Schools for the Deaf and Blind have substantial improvement needs, and I appreciate the hard work and achievements of the Schools’ teachers, aides, and students. However, this bill is problematic because it has the great potential to redirect limited resources away from the fifty-five county boards of education that apply to the SBA for funding.

This bill is also problematic because we do not yet have a firm understanding of what the Schools for the Deaf and Blind’s needs are to become financially viable well into the future. Accordingly, I have asked the State Board of Education--which controls, supervises, and manages the Schools--to commission an independent, objective assessment of their needs, both facilities and curriculum-related. Outside experts should also analyze the Schools’ continuing viability. Without such an assessment, there is the potential the state could spend limited resources unwisely.

I am committed to continuing to work with the Schools and the Legislature to find an appropriate solution upon completion of the outside assessment. Because this bill is premature

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and not the appropriate solution, I must disapprove it.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2161.

The bill is technically flawed because its title is defective. *See State ex rel. Davis V. Oakley*, 156 W. Va. 154, 191 S.E.2d. 610 (1972) (requiring bill title to provide notice of bill's contents). The bill's title does not provide notice that wiretaps are permitted in suspected cases of human trafficking; that business entities are now subject to criminal penalties; and that there is a statute of limitations for claims; among other things. As a result, the title fails to provide adequate notice of the bill's contents, including its criminal penalties. Moreover, this bill creates the

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Commission on the Prevention of Human Trafficking; however, the bill does not provide a method for paying the commission's expenses. I question why this bill does not have a fiscal note.

Human trafficking is a scourge in states and communities across the country. Legislation designed to raise consciousness about this epidemic and hold accountable those who exploit human trafficking victims in West Virginia is a step in the right direction. Therefore, I encourage the legislature to resolve the foregoing issues related to this bill and to present it for my signature during the 2016 Regular Session of the Legislature.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I

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hereby disapprove Enrolled Committee Substitute for House Bill No. 2240. This bill seeks to establish that strangulation is a criminal offense. However, there are numerous criminal offenses in the West Virginia Code that already prohibit and punish strangulation. *See, e.g.*, W. Va. Code §§61-2-9 (malicious or unlawful assault; assault; battery) and 61-2-28 (domestic violence). I disapprove this bill because it is duplicative of existing law.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled House Bill No. 2576 because it is technically flawed. For example, the bill refers to boards and commissions that have been repealed; the bill incorrectly identifies several boards and commissions; and the bill contains several incorrect internal West Virginia

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Code citations. Moreover, page 8, lines 41-49 contain numbering issues, including two subdivisions numbered (8). For these technical reasons and others, I must disapprove the bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove House Bill No. 2627 because it is technically flawed.

The bill establishes, among other things, a new criminal offense for the damage or destruction of certain commercial or industrial property relating to the protection of health or safety. *See* page 3, lines 40-54. The bill designates this offense a felony. However, its punishment provision does not include a period of confinement in the penitentiary.

According to W. Va. Code §61-11-1, a felony offense is defined as being “punishable by

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confinement in the penitentiary.” *See also* Black’s Law Dictionary (9th ed. 2009) (defining felony as “[a] serious crime usually punishable by imprisonment for more than one year or by death”). Crimes that are not punished in this manner are considered misdemeanors. This bill is fundamentally flawed because the crime does not meet the definition of felony.

For this technical reason, I must disapprove the bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove House Bill No. 2674.

This bill modifies the eligibility requirements for home school students to receive the PROMISE scholarship. The PROMISE scholarship is a merit-based financial aid program for West Virginia

residents who meet certain academic requirements, including graduating from high school with a cumulative grade point average of 3.0 or higher or earning a general equivalency degree (“GED”). This bill eliminates the GED requirement.

Eliminating the requirement that home school students show mastery of certain subjects, rather than simply complete a course of study, provides an unfair advantage for those students to receive a PROMISE scholarship. It could also create an incentive for some students to drop out of the public school system if their performance does not meet the required GPA standard to be eligible for the PROMISE scholarship. I believe this type of advantage was not intended when the Legislature created this merit-based program. Therefore, I disapprove the bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I disapprove Enrolled Committee Substitute for House Bill No. 2793 for the following reasons.

The bill eliminates several requirements associated with the provision of home instruction to children that are necessary and appropriate. First, the bill eliminates the requirement of two weeks' notice to remove a child from public school for the purpose of commencing home instruction. This is important to ensure there are no underlying issues associated with truancy or other attendance problems. Second, the bill removes the requirement that a plan of instruction be submitted annually. This requirement helps ensure that a home schooled child will receive adequate instruction each year to develop at a rate comparable to his or her peers, beyond an annual assessment to take place after the school year. Third, the bill eliminates the prohibition on permitting a child's parent or legal guardian to administer a nationally normed standardized achievement test for purposes of the annual assessment. This prohibition protects a parent or legal guardian from any appearance of impropriety or conflict of interest in such a testing situation. Finally, the bill eliminates the provision requiring a parent or legal guardian to pay the cost of an academic assessment that takes place outside of a public school. This leaves §18-8-1 of the West Virginia Code unclear as to who or what entity is responsible for paying the costs of the annual assessment.

For the foregoing reasons, I disapprove Enrolled Committee Substitute for House Bill No. 2793.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

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STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

April 1, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill No. 2840.

This bill would allow county boards of education to substitute up to four days of in-school instructional time with at-home instructional time in certain instances. As a result, students may only receive 176 days of in-school instructional time instead of 180 separate days as required under current law. One of my goals in Senate Bill No. 359, signed into law in 2013, was to ensure students receive 180 separate days of in-school instruction. This bill takes a step backward in meeting this goal and is directly at odds with my comprehensive education reform bill.

I encourage county boards of education to continue exploring options to meet the required 180 separate days of in-school instruction to ensure our state's students receive a thorough and efficient education.

Sincerely,

Earl Ray Tomblin,

Governor:

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 2, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Senate Bill No. 549.

This bill increases the annual salaries of certain civilian employees within the West Virginia State Police Forensic Laboratory, including civilian evidence technicians, forensic analysts and forensic analyst supervisors. Just last year, these same employees received a twenty percent salary increase across-the-board. *See* Enrolled Committee Substitute for Committee Substitute for Senate Bill No. 486 (2014). Although I value the work performed by the State Police Forensic Laboratory, I am not comfortable with approving back-to-back pay raises during a year in which many other State employees are going without any pay increase.

For this reason, I disapprove Enrolled Senate Bill No. 549.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 2, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled House Bill No. 2776.

This bill allows physician assistants, advance practice registered nurses, and optometrists to prescribe “hydrocodone combination drugs to a patient for a duration of no more than three days per thirty day period.” The term “hydrocodone combination drug” is not defined in the West Virginia Code, nor is it defined in the bill. This creates ambiguity because it is not clear which drugs listed in the schedules contained in chapter sixty-a, article two of the Code may be prescribed. Further, the language added to the Code in this bill directly conflicts with other sections of the Code. For example, §§30-3E-3(a)(7), 30-7-15a(c), and 30-8-6 expressly prohibit these professionals from prescribing Schedule I and II drugs in contrast to the added language in

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the bill. Finally, and perhaps most importantly, this bill does not place any limit on the aggregate dosage that may be prescribed in a seventy-two hour period.

In an effort to continue combatting the substance abuse problem in West Virginia, it is critical that the law is clear in identifying what drugs our state's practitioners may prescribe and the amount thereof. Because this bill is ambiguous and in conflict with existing provisions of the code, I must disapprove it.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable Tim Armstead

The Honorable William P. Cole III

STATE OF WEST VIRGINIA

OFFICE OF THE GOVERNOR

CHARLESTON

April 3, 2015

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Senate Bill No. 584.

The Board of Education has made laudable efforts to determine the best course of future action

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related to the Cedar Lakes Camp and Conference Center and I support the transfer of the camp to a private, nonstock, not-for-profit corporation. However, §18-2L-8(d) of the bill provides for an unexpected increase in separation costs that will result in substantial taxpayer expense.

I encourage the Board of Education to work with the Legislature to remedy this issue in the future; however, as it was presented, I must disapprove the bill.

Sincerely,

Earl Ray Tomblin,

Governor.

The Honorable William P. Cole III

The Honorable Tim Armstead

All business of the sixty-day and extended session now being concluded,

Senator Gaunch, from the select committee to notify His Excellency, the Governor, that the Senate is ready to adjourn *sine die*, returned to the chamber and was recognized by the President.

Senator Gaunch then reported this mission accomplished.

Thereupon,

On motion of Senator Carmichael, the Senate adjourned *sine die*.
