

Delegate Walters requested to be excused from voting on the passage of Com. Sub. for S. B. 362 under the provisions of House Rule 49.

The Speaker replied that Delegate Walters may have a direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 268**), and there were—yeas 72, nays 27, excused 1, absent and not voting none, with the nays and excused being as follows:

Nays: Baldwin, Barrett, Canestraro, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lynch, Marcum, Miley, R. Miller, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Excused: Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 362) passed.

On motion of Delegate Nelson, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 362 – “A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to authorizing the redirection of certain amounts to the General Revenue Fund; authorizing the redirection of amounts collected from certain surcharges and assessments on workers’ compensation insurance policies for periods prior to July 1, 2018; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.”

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

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 269**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart, Marcum, McGeehan and Wilson.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S.B.419) passed.

On motion of Delegate Nelson, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 419 – “A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11 of the said code; to amend and reenact §21-3D-8 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-9 of said code; to amend and reenact §21-16-10 of said code; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code; and to amend and reenact §47-1A-10 and §47-1A-14 of said

code, all relating generally to the Division of Labor; establishing 'Steam Boiler Fund'; establishing 'HVAC Fund'; establishing 'Plumbing Work Fund'; establishing 'Psychophysiological Examiners Fund'; establishing 'Bedding and Upholstery Fund'; requiring the commissioner to charge certain fees for steam boilers; authorizing the commissioner to promulgate legislative and emergency rules to administer and enforce fees on service persons and service agencies and businesses using weighing and measuring devices; directing civil penalty fees to the Weights and Measures Fund; removing requirement that the commissioner approve applications for sterilization permits held in states other than West Virginia only after personal inspection of such sterilizer or disinfectant; increasing maximum fees for the issuance of certificates of operation of elevators; establishing certain late fees; establishing certain reissuance fees for revoked or expired permits; increasing certain fees for sterilizers, manufacturers, shippers or sellers of bedding or upholstery, upholsters and renovators; and authorizing the commissioner to promulgate legislative rules."

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

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on third reading, coming up in regular order, with amendments pending, and the restricted right to amend jointly by Delegates Nelson and Boggs, was, on motion of Delegate Cowles, laid upon the table.

Second Reading

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, section twenty-two-d, line six, by striking out subsections (b) and (c) and inserting new subsections (b) and (c) to read as follows:

"(b) A school nurse, as set forth in section twenty-two of this article, is authorized to administer an opioid antagonist to a student, school personnel or a person during regular school hours, at a school function, or at an event of school property when the school nurse medically believes the individual is experiencing an adverse opioid event.

(c) Nonmedical school personnel who have been trained in the administration of an opioid antagonist and who have been designated and authorized by the school to administer the opioid antagonist are authorized to administer an opioid antagonist to a student, school personnel or a person during regular school hours, at a school function, at an event on school property when the authorized and designated nonmedical school personnel reasonably believes, based upon their training, that the individual is experiencing an adverse opioid event."

And,

On page two, line twenty-two, by striking out the words "to a student or school personnel".

The bill was ordered to third reading.

S. B. 41, Extending time person may be subject to probation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 164, Relating to traffic regulations and special load limits; on second reading, coming up in regular order, was read a second time.

Delegate Pyles moved to amend the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §17-4-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §17C-17-5 and §17C-17-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-27. Same — Control of connecting parts of state road system within municipalities.

(a) (1) The ~~State Road~~ Commissioner of Highways shall exercise the same control over connecting parts of the state road system in municipalities, except the regulation of traffic, that he or she exercises over such system generally, but he or she shall assume no greater duty or obligation in the construction, reconstruction and maintenance of streets which are part of the state road system than he or she is required to assume in the case of state roads outside of municipalities.

(2) For purposes of this subsection, “regulation of traffic” includes the power to regulate the weight and size of vehicles traveling in a municipality when there is at least one reasonable alternate route available to avoid traveling within the municipality.

(b) Subject to subsection (a) of this section, in order, however, to promote the safe and efficient utilization of such streets, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any municipality on any highway or street hereafter constructed with state or federal aid ~~shall be~~ are subject to the approval of the ~~state Road~~ Commissioner of Highways.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-15-5. Special load limits.

(a) Subject to the foregoing provisions of this article limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle: *Provided*, That a digger/derrick line truck may be operated with a load of no more than ~~forty~~ forty-five feet in length, with the load extending no more than ~~six~~ nine feet beyond the foremost part of the truck and no more than ~~nine~~ eleven feet beyond the rear of the bed of the body of the truck, between sunrise and sunset except in an emergency, and the operation of the truck shall comply with the provisions of section fourteen, article fifteen of this chapter.

(b) The limitations as to length of vehicles and loads heretofore stated in section four of this article and subsection (a) of this section shall not apply to any load upon a pole trailer when transporting poles or pipes or structural material which cannot be dismembered: *Provided*, That no pole or pipe or other material exceeding eighty feet in length shall be so transported unless a permit has first been obtained as authorized in section eleven of this article.

§17C-17-12. When ~~state road commission~~ Commissioner of Highways or local authorities may restrict right to use highways.

(a) Local authorities with respect to highways ~~under their jurisdiction~~ within their borders may by ordinance or resolution prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed ninety days in any one calendar year, whenever ~~any said~~ the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The local authority enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution ~~shall~~ is not ~~be~~ effective unless and until ~~such~~ the signs are erected and maintained.

(c) Local authorities with respect to highways ~~under their jurisdiction~~ within their borders may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, ~~which~~ when there is at least one reasonable alternate route available to avoid traveling within their borders. The prohibitions and limitations shall be designated by appropriate signs placed on ~~such~~ the highways.

(d) Subject to subsections (a), (b) and (c) of this section, the ~~state road commission~~ shall likewise ~~have~~ Commissioner of Highways has the same authority, as ~~hereinabove~~ granted in this section to local authorities to ~~determine by resolution and to~~ impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of ~~said commission~~ the commissioner and ~~such~~ the restrictions ~~shall be~~ are effective when signs giving notice thereof are erected upon the highway or portion of any highway affected. ~~by such resolution."~~

The question being on the adoption of the amendment, the same was put and did not prevail.

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

"That §62-1D-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

CHAPTER 62. WIRETAPPING AND ELECTRONIC SURVIELLANCE ACT.

ARTICLE 1D. WireTapping and Electronic Surveillance Act.

§62-1D-2. Definitions.

As used in this article, unless the context in which used clearly requires otherwise, the following terms have the meanings indicated:

(a) 'Aggrieved person' means a person who was a party to any intercepted wire, oral or electronic communication or a person against whom the interception was directed.

(b) 'Child care center' means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, that is licensed by Department of Health and Human Resources for the care of children in any setting.

~~(b)~~ (c) 'Communications common carrier' means any telegraph company or telephone company and any radio common carrier.

~~(c)~~ (d) 'Contents', when used with respect to any wire, oral or electronic communication, includes any information concerning the substance, purport or meaning of that communication.

~~(d)~~ (e) 'Electronic, mechanical or other device' means any device or apparatus (i) which can be used to intercept a wire, oral or electronic communication or (ii) the design of which renders it primarily useful for the surreptitious interception of any such communication. There is excepted from this definition:

(1) Any telephone or telegraph instrument, equipment or facility or any component thereof: (a) Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or furnished by ~~such the~~ subscriber or user for connection to the facilities of ~~such the~~ service and used in the ordinary course of its business; or (b) being used by a communications common carrier in the ordinary course of its business or by an investigative or law-enforcement officer in the ordinary course of his or her duties; or

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal; or

(3) Any device used in a lawful consensual monitoring including, but not limited to, tape recorders, telephone induction coils, answering machines, body transmitters and pen registers.

~~(e)~~ (f) 'Intercept' means the aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

~~(f)~~ (g) 'Designated judge' means a circuit court judge designated by the chief justice of the West Virginia Supreme Court of Appeals to hear and rule on applications for the interception of wire, oral or electronic communications.

~~(g)~~ (h) 'Investigative or law-enforcement officer' means a member or members of the ~~department of public safety~~ West Virginia State Police who is or are empowered by law to conduct investigations of or to make arrest for offenses enumerated in this chapter.

~~(h)~~ (i) 'Oral communication' means any oral communication uttered by a person exhibiting an expectation that ~~such the~~ communication is not subject to interception under circumstances justifying ~~such the~~ expectation; ~~but such The~~ term does not include; ~~any electronic communication.~~

(A) An electronic communication; or

(b) An oral communication uttered in any child care center where there are written notices posted informing persons that their oral communications are subject to being intercepted.

~~(i)~~ (j) 'Pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which ~~such the~~ device is attached, but ~~such the~~ term does not include any device used by a provider or customer of a wire

or electronic communication service for billing, or recording as an incident to billing, for communications services provided by ~~such~~ the provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

~~(j)~~ (k) 'Person' means any person, individual, partnership, association, joint stock company, trust or corporation and includes any police officer, employee or agent of this state or of a political subdivision thereof.

~~(k)~~ (l) 'Wire communication' means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception (including the use of ~~such~~ the connection in a switching station) furnished or operated by any person engaged in providing or operating ~~such~~ the facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce and ~~such~~ the term includes any electronic storage of ~~such~~ the communication, but ~~such~~ the term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

~~(l)~~ (m) 'Electronic communication' means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electro-magnetic, photoelectronic or photooptical system but does not include:

(1) The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

(2) Any wire or oral communication; or

(3) Any combination made through a tone-only paging device.

~~(m)~~ (n) 'User' means any person or entity who or which uses an electronic communication service and is duly authorized by the provider of ~~such~~ the service to engage in ~~such~~ the use.

~~(n)~~ (o) 'Electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of ~~such~~ the communications.

~~(o)~~ (p) 'Electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications.

~~(p)~~ (q) 'Aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

~~(q)~~ (r) 'Trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted."

The bill was ordered to third reading.

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. GRAND JURIES.

§52-2-11. Materials subpoenaed by grand jury; authorizing custodian possession and use thereof.

(a) For purposes of this section:

(1) ‘Prosecuting attorney’ means a prosecuting attorney, assistant prosecuting attorney or duly appointed special prosecuting attorney.

(2) ‘Investigator’ means an investigator employed by a prosecuting attorney’s office or an employee of a state agency authorized by the provisions of this code to perform criminal investigations. For purposes of this definition, state agency shall include a legislative committee, commission or entity authorized by the provisions of this code to perform criminal investigations.

(3) ‘Law-enforcement officer’ shall have the same meaning as is set forth in section one, article twenty-nine, chapter thirty of this code: *Provided*, That for purposes of this section, “law-enforcement officer” shall also include those individuals meeting the definition of “chief executive” set forth in section one, article twenty-nine, chapter thirty of this code.

(4) ‘Subpoenaed material’ means books, records, documents, papers, computers, laptops, computer hard drives, electronic records, including but not limited to, emails, electronic files, electronic documents, metadata or any other thing in any form in which it may exist.

(b) Notwithstanding any provision of this code to the contrary, material subpoenaed and received by a prosecuting attorney pursuant to a grand jury subpoena may thereafter, in the discretion of the prosecuting attorney, be delivered to a designated law-enforcement officer or investigator. Upon receipt from the prosecuting attorney, the designated law-enforcement officer or investigator may keep, review and analyze the subpoenaed materials and otherwise use the subpoenaed materials for investigative purposes.

(c) Prior to providing subpoenaed material to a designated law-enforcement officer or investigator, as authorized by subsection (b) of this section, the prosecuting attorney shall prepare and have the designated law-enforcement officer or investigator execute a nondisclosure statement acknowledging the existence and content of the subpoenaed material is secret under Rule 6(e) of the West Virginia Rules of Criminal Procedure. The prosecuting attorney shall file all nondisclosure statements, under seal, with the clerk of the circuit court. The existence or contents of any subpoenaed material subject to the provisions of this section may only be disclosed to another law-enforcement officer or investigator for investigative purposes with the prior written authorization of the prosecuting attorney and the receiving law-enforcement officer’s or investigator’s execution of a nondisclosure statement.

(d) The designated law-enforcement officer or investigator, as authorized by subsection (b) of this section, may, in the discretion of the prosecuting attorney, retain the subpoenaed material or other evidence in his or her possession, care, custody or control until the termination of the investigation or presentation of the subpoenaed matter to the grand jury.”

The bill was ordered to third reading.

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill was amended on page two, section two, line two, following the word “may”, by striking out the clause “upon majority vote by a quorum of the members appointed, to”, and inserting the clause “by majority vote” followed by a colon.

And,

On page five, section three, line one, by striking out the phrase “Upon a quorum vote” and inserting the phrase “By majority vote”, followed by a comma.

The bill was ordered to third reading.

Com. Sub. for S. B. 338, Relating to medical professional liability; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, by striking out the enacting section and inserting in lieu thereof the following:

“That §30-3E-8 of the Code of West Virginia, 1931, as amended, be repealed; that §16-5-19 of said code be amended and reenacted; that §30-3-5 of said code be amended and reenacted; that §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-3E-12a, and that §33-15-14 of said code be amended and reenacted, all to read as follows”, and a colon.

On page eight, section one, line twenty-six, after the word “rendered”, by inserting a period and striking the remainder of the sentence.

On page ten, section three, line ten, by striking out subdivision (7) in its entirety and inserting the following:

“(7) The eligibility and extent to which a physician assistant may prescribe at the direction of his or her supervising collaborating physician, including a state formulary classifying those categories of drugs which shall not be prescribed by a physician assistant including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice agreement as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.”

On page thirteen, section seven, line five, by striking out subdivision (3) in its entirety and inserting in lieu thereof the following:

“Proof that he or she has passed Physician Assistant National Certifying Examination”.

On page fifteen, section nine, line twenty-six, by striking out subsection (e) in its entirety.

On page nineteen, section sixteen, line four, after the word, “jurisdiction”, by inserting a semicolon and striking the remainder of the sentence.

And,

On page twenty-one, after line eighteen, by inserting the following:

“CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-14. Policies discriminating among health care providers.

Notwithstanding any other provisions of law, when any health insurance policy, health care services plan or other contract provides for the payment of medical expenses, benefits or procedures, such policy, plan or contract shall be construed to include payment to all health care providers including medical physicians, osteopathic physicians, podiatric physicians, chiropractic physicians, midwives, physician assistants and nurse practitioners who provide medical services, benefits or procedures which are within the scope of each respective provider’s license. Any limitation or condition placed upon services, diagnoses or treatment by, or payment to any particular type of licensed provider shall apply equally to all types of licensed providers without unfair discrimination as to the usual and customary treatment procedures of any of the aforesaid providers.”

The bill was ordered to third reading.

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on second reading, coming up in regular order, having been read a second time on March 28, 2017, was reported by the Clerk.

Delegate Eldridge moved to amend the bill on page two, by striking out the enacting section and inserting in lieu thereof, the following:

“That 19-23-10 and 19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows”, and a colon.

And,

On page two, following the enacting section, by striking out the remainder of the bill, and inserting in lieu thereof the following:

**“PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING;
DISPOSITION OF REVENUES.**

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of \$250. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of \$150. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of \$150. In the event thoroughbred racing, harness racing, dog racing or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of \$250 shall be paid for that day. Any daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools conducted or made at any and every thoroughbred race meeting of the licensee licensed under the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during the months of January, February, March, October, November and December, shall be calculated at four-tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each day during all other months, shall be calculated at one and four-tenths percent of the pool: *Provided*, That out of the amount realized from the three tenths of one percent decrease in the tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the amount of commission retained by the licensee, the licensee shall annually expend or dedicate: (i) One half of the realized amount for capital improvements in its barn area at the track, subject to the Racing Commission's prior approval of the plans for the improvements; and (ii) the remaining one half of the realized amount for capital improvements as the licensee may determine appropriate at the track. The term 'capital improvement' shall be as defined by the Internal Revenue Code: *Provided, however*, That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of \$280,000 or less per day for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of \$300,000: *Provided further*, That upon the effective date of the reduction of the daily pari-mutuel pool tax to \$1,000 from the former \$2,000, the association or licensee shall daily deposit \$500 into the special fund for regular purses established by subdivision (1), subsection (b), section nine of this article: *And provided further*, That if an association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this subsection for each performance: *And provided further*, That a licensee qualifying for the foregoing alternate tax is excluded from participation in the fund established by section thirteen-b of this article: *And provided further*, That this exclusion shall not apply to any thoroughbred racetrack at which the licensee has participated in the West Virginia Thoroughbred Development Fund for more than four consecutive years prior to December 31, 1992.

(c) Any racing association licensed by the Racing Commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four percent of the

next \$150,000; and five and three-fourths percent of all over that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the Racing Commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000 of the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking institution of its choice in a special account to be known as 'West Virginia Racing Commission-Special Account-West Virginia Greyhound Breeding Development Fund': *Provided*, That effective July 1, 2017, and thereafter, fifty percent of the amount deducted and any others moneys required by this section to be deposited in the West Virginia Greyhound Breeding Development Fund shall instead be deposited into the State Excess Lottery Revenue Fund pursuant to section ten-a of this article. The purpose of the fund is to promote better breeding, training track facilities and racing of greyhounds in the state through awards and purses to bona fide resident registered greyhound owners of accredited West Virginia whelped greyhounds. In order to participate and be eligible to receive an award or purse through the fund, the registered greyhound owner must have an appropriate license from the Racing Commission to race in West Virginia. The registered greyhound dam at the time of breeding must be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered greyhound owner may not claim residency in any other state. A registered greyhound owner must prove bona fide residency by providing to the commission personal income tax returns filed in the State of West Virginia for the most recent tax year and the three previous tax years, has real or personal property in this state on which the owner has paid real or personal property taxes during the most recent tax year and the previous three tax years and an affidavit stating that the owner claims no other state of residency. The Racing Commission shall maintain a registry for West Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses for stake races, training track facilities, supplemental purse awards, administration, promotion, education and greyhound adoption programs involving West Virginia whelped dogs, owned by residents of this state under rules promulgated by the Racing Commission. The Racing Commission shall pay out of the greyhound breeding development fund to each of the licensed dog racing tracks the sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall deposit the sum into the special fund for regular purses established under the provisions of section nine of this article. The funds shall be expended solely for the purpose of supplementing regular purses under rules promulgated by the Racing Commission.

Supplemental purse awards will be distributed as follows: Supplemental purses shall be paid directly to the registered greyhound owner of an accredited greyhound.

The registered greyhound owner of accredited West Virginia whelped greyhounds that earn points at any West Virginia meet will receive a bonus award calculated at the end of each month as a percentage of the fund dedicated to the owners as purse supplements, which shall be a minimum of

fifty percent of the total moneys deposited into the West Virginia Greyhound Breeding Development fund monthly.

The total amount of the fund available for the owners' awards shall be distributed according to the ratio of points earned by an accredited greyhound to the total amount earned in races by all accredited West Virginia whelped greyhounds for that month as a percentage of the funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall be the same as approved by the Racing Commission to be effective April 1, 2007. The West Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or deletions to the registry of accredited West Virginia whelped greyhounds on the first of each month. The Racing Commission shall not require anyone to be a member of a particular association in order to participate in the West Virginia Greyhound Breeding Development Fund.

The registered greyhound owner of an accredited West Virginia whelped greyhound shall file a purse distribution form with the Racing Commission for a percentage of his or her dog's earnings to be paid directly to the registered greyhound owner or owners of the greyhound. Distribution shall be made on the fifteenth day of each month for the preceding month's achievements.

In no event shall points earned at a meet held at a track which did not make contributions to the West Virginia Greyhound Breeding Development Fund out of the daily pool on the day the meet was held qualify or count toward eligibility for supplemental purse awards.

Any balance in the purse supplement funds after all distributions have been made for the year revert to the general account of the fund for distribution in the following year: *Provided*, That not more than \$2 million from the balance in the purse supplemental fund shall be used for the construction and maintenance of two dog training track facilities if such be approved by the Racing Commission: *Provided, however*, That not more than \$1 million may be allocated for the construction and maintenance of each training track: *Provided further*, That both training track facilities must be located in West Virginia. The West Virginia Racing Commission shall be authorized to promulgate rules governing dog training tracks: *And provided further*, That the Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the construction or maintenance, or both, of the training tracks; and (2) set standards to assure that only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

In an effort to further promote the breeding of quality West Virginia whelped greyhounds, a bonus purse supplement shall be established in the amount of \$50,000 per annum, to be paid in equal quarterly installments of \$12,500 per quarter using the same method to calculate and distribute these funds as the regular supplemental purse awards. This bonus purse supplement is for three years only, commencing on July 1, 1993, and ending June 30, 1996. This money would come from the current existing balance in the greyhound development fund.

Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West Virginia Racing Commission by July 1, each year shall establish and announce the minimum number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West Virginia dog tracks must have on their racing active list during the calendar year following such action. The minimum number may vary from dog track to dog track. The minimum number shall be established after consultation with the West Virginia Greyhound Owners and Breeders Association and kennel owners and operators. Factors to

be considered in establishing this minimum number shall be the number of individually registered accredited West Virginia whelped greyhounds whelped in the previous two years. The number of all greyhounds seeking qualification at each West Virginia dog track, the ratio of active running greyhounds to housed number of greyhounds at each West Virginia dog track, and the size and number of racing kennels at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of accredited West Virginia whelped greyhounds determined by the West Virginia Racing Commission on their active list shall only be permitted to race the maximum allowable number on the active list less the number of accredited West Virginia whelped greyhounds below the established minimum number. Consistent violations of this minimum requirement may be reviewed by the Racing Commission and may constitute cause for denial or revocation of a kennel's racing license. The Racing Commission shall oversee and approve racing schedules and purse amounts.

Ten percent of the deposits into the greyhound breeding development fund beginning July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and placed in a special revenue account hereby created in the State Treasury called the 'administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account' The Racing Commission is authorized to expend the moneys deposited in the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995 and in each fiscal year thereafter in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill, the recommended expenditures, as well as requests of appropriations for the purpose of administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering. The commission shall make an annual report to the Legislature on the status of the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account, including the previous year's expenditures and projected expenditures for the next year.

The Racing Commission, for the fiscal year 1994 only, may expend up to \$35,000 from the West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this section without strictly following the requirements in the previous paragraph.

(e) All daily license and pari-mutuel pools tax payments required under the provisions of this section shall be made to the Racing Commission or its agent after the last race of each day of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all contributions to all pari-mutuel pools to each and every race of the day.

(f) Every association or licensee subject to the provisions of this article, including the changed provisions of sections nine and ten of this article, shall annually submit to the Racing Commission and the Legislature financial statements, including a balance sheet, income statement, statement of change in financial position and an audit of any electronic data system used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing standards, as certified by an experienced public accountant or a certified public accountant.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

(a) The Racing Commission shall deposit moneys required to be withheld by an association or licensee in subsection (b), section nine of this article in a banking institution of its choice in a special

account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund: *Provided*, That after the West Virginia Lottery Commission has divided moneys between the West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund, pursuant to the provisions of sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code, the Racing Commission shall, beginning October 1, 2005, deposit the remaining moneys required to be withheld from an association or licensee designated to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this article, subdivision (3), subsection (e), section twelve-b of this article, subsection (b), section twelve-c of this article, paragraph (B), subdivision (3), subsection (b), section thirteen-c of this article and sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code into accounts for each thoroughbred racetrack licensee with a banking institution of its choice with a separate account for each association or licensee: *Provided, That effective July 1, 2017, and thereafter, fifty percent of the total amounts deducted and any other moneys required by this section to be deposited in the West Virginia Thoroughbred Development Fund shall instead be deposited into the State Excess Lottery Revenue Fund pursuant to section ten-a if this article.* Each separate account shall be a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund and shall name the licensee for which the special account has been established: *Provided, however*, That the Racing Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, from July 8, 2005, until the effective date of the amendment to this section passed during the fourth extraordinary session of the seventy-seventh Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee: *Provided further*, That the moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall be transferred into that licensee's purse fund until April 1, 2006. Notice of the amount, date and place of the deposits shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the funds is to promote better breeding and racing of thoroughbred horses in the state through awards and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners: *Provided*, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby continued in the State Treasury called the Administration and Promotion Account: *Provided, however*, That four and one-half percent of the deposits into the Thoroughbred Development Fund shall be placed in the Administration and Promotion Account, except that of this percentage, no more than \$305,000 shall be placed in the account in any year.

(b) The Racing Commission is authorized to expend the moneys deposited in the administration and promotion account at times and in amounts as the commission determines to be necessary for purposes of administering and promoting the thoroughbred development program: *Provided*, That during any fiscal year in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill the recommended expenditures, as well as requests of appropriations for the purpose of administration and promotion of the program. The commission shall make an annual report to the Legislature on the status of the administration and promotion account, including the previous year's expenditures and projected expenditures for the next year.

(c) The fund or funds and the account or accounts established in subsection (a) of this section shall operate on an annual basis.

(d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for each association or licensee as provided in subsection (a) of this section shall be expended for awards

and purses except as otherwise provided in this section. Annually, the first \$800,000 shall be available for distribution for a minimum of fourteen accredited stakes races at a racetrack which has participated in the West Virginia Thoroughbred Development Fund for a period of more than four consecutive calendar years prior to December 31, 1992. The weights for all accredited stakes races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the second shall be the Frank Gall Memorial Stakes. For the purpose of participating in the West Virginia Futurity only, all mares, starting with the breeding season beginning February 1 through July 31, 2004, and each successive breeding season thereafter, shall be bred back that year to an accredited West Virginia stallion only which is registered with the West Virginia Thoroughbred Breeders Association. The accredited stake races shall be chosen by the committee set forth in subsection (f) of this section.

(e) Awards and purses shall be distributed as follows:

(1) The breeders/raisers of accredited thoroughbred horses that earn a purse at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to the breeders/raisers, which shall be sixty percent of the fund available for distribution in any one year. The total amount available for the breeders'/raisers' awards shall be distributed according to the ratio of purses earned by an accredited race horse to the total amount earned in the participating races by all accredited race horses for that year as a percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive from the fund dedicated to breeders'/raisers' awards an amount in excess of the earnings of the accredited horse at West Virginia meets. In addition, should a horse's breeder and raiser qualify for the same award on the same horse, they will each be awarded one half of the proceeds. The bonus referred to in this subdivision may only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(2) The owner of an accredited West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall be fifteen percent of the fund available for distribution in any one year. The total amount available for the sire owners' awards shall be distributed according to the ratio of purses earned by the progeny of accredited West Virginia stallions in the participating races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the participating races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(3) The owner of an accredited thoroughbred horse that earns a purse in any participating race at a West Virginia meet shall receive a restricted purse supplement award calculated at the end of the year, which shall be twenty-five percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the participating races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of thirty-five percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(4) In no event may purses earned at a meet held at a track which did not make a contribution to the Thoroughbred Development Fund out of the daily pool on the day the meet was held qualify or count toward eligibility for an award under this subsection.

(5) Any balance in the breeders/raisers, sire owners and purse supplement funds after yearly distributions shall first be used to fund the races established in subsection (f) of this section. Any amount not so used shall revert into the general account of the Thoroughbred Development Fund for each racing association or licensee for distribution in the next year.

Distribution shall be made on the fifteenth day of each February for the preceding year's achievements.

(f)(1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race per racing day: *Provided*, That sufficient horses and funds are available. For purposes of the one restricted race required by this subdivision, there are sufficient horses if there are at least seven single betting interests received for the race: *Provided, however*, That, if sufficient horses and funds are available, any thoroughbred horse racetrack whose licensee participated in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall provide three restricted races per racing day, at least one of which may be split at the discretion of the racing secretary. For the purposes of a second restricted race there shall be at least seven single betting interests and for purposes of a third restricted race there must be at least nine single betting interests in one of the restricted races run that day. The restricted race required by this section must be included in the first nine races written in the condition book for that racing day.

(2) The restricted races established in this subsection shall be administered by a three-member committee at each track consisting of:

(A) The racing secretary at each track;

(B) A member appointed by the authorized representative of a majority of the owners and trainers at the thoroughbred track; and

(C) A member appointed by the West Virginia Thoroughbred Breeders Association.

(3) Restricted races shall be funded by each racing association from:

(A) Moneys placed in the general purse fund: *Provided*, That a thoroughbred horse racetrack which did not participate in the West Virginia Thoroughbred Development fund for a period of more than four consecutive years prior to December 31, 1992, may fund restricted races in an amount not to exceed \$1,000,000 per year.

(B) Moneys as provided in subdivision (5), subsection (e) of this section, which shall be placed in a special fund called the West Virginia Accredited Race Fund.

(4) The racing schedules, purse amounts and types of races are subject to the approval of the West Virginia Racing Commission.

(g) As used in this section, 'West Virginia-bred foal' means a horse that was born in the State of West Virginia.

(h) To qualify for the West Virginia Accredited Race Fund, the breeder must qualify under one of the following:

(1) The breeder of the West Virginia-bred foal is a West Virginia resident;

(2) The breeder of the West Virginia-bred foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year round; or

(3) The breeder of the West Virginia-bred foal is not a West Virginia resident and does not qualify under subdivision (2) of this subsection, but either the sire of the West Virginia-bred foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia-bred foal.

(i) From July 1, 2001, West Virginia accredited thoroughbred horses have preference for entry in all accredited races at a thoroughbred race track at which the licensee participates in the West Virginia Thoroughbred Development Fund.

(j) Beginning July 1, 2006, any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article must have a West Virginia Thoroughbred Racing Breeders Program.”

During debate on the amendment before the House, Delegate Fluharty was called out of order by Mr. Speaker, Mr. Armstead, for his remarks.

Delegate Cowles was addressing the House when Delegate Fluharty arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks of the Delegate were related to the amendment.

On the adoption of the amendment, Delegate Eldridge demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 270**), and there were—yeas 39, nays 57, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Ward and Williams.

Absent and Not Voting: Arvon, Dean, Lewis and Maynard.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was ordered to third reading.

Com. Sub. for S. B. 442, Relating generally to crimes against persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section ten, line fifty-nine, by striking out the phrase “this incarceration” and inserting in lieu thereof the phrase “incarceration in the regional jail pending transfer”.

The bill was ordered to third reading.

Com. Sub. for S. B. 473, Permitting collection and sale of naturally shed deer antlers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 497, Relating to liability for health care providers who provide services at school athletic events; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 684, Relating generally to WV State Police; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 5, Disqualifying CDL for DUI conviction in certain cases,

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules,

Com. Sub. for S. B. 206, Expanding definition of 'kidnapping' to include taking or gaining custody of, confining or concealing person by force,

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act,

S. B. 222, Relating to disqualification for unemployment benefits,

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court,

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel,

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor,

Com. Sub. for S. B. 445, Amending definition of "abused child",

And,

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases.

At 12:51 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Hill, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

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

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 341) was referred to the Committee on Finance.

Delegate Westfall, Chair of the Committee on Banking and Insurance submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 522, Relating to pharmacy audits,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Health and Human Resources be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 522) to the Committee on Health and Human Resources was abrogated.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 349, Repealing outdated code related to Division of Corrections,

And,

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 172, Eliminating salary for Water Development Authority board members,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2459, Relating to regulation of health care and the certificate of need process.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §16-2D-5f of the Code of West Virginia, 1931, as amended, be repealed; that §16-5F-1; §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5, §16-5F-6 and §16-5F-7 be repealed; that §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27, and §16-29B-29 be repealed; that §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10 be repealed; that §5F-1-3a of said code be amended and reenacted; that §6-7-2a of said code be amended and reenacted; that §9-4C-7 and §9-4C-8 of said code be amended and reenacted; that §11-27-9 and §11-27-11 of said code be amended and reenacted; that §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code be amended and reenacted; that §16-5B-17 of said code be amended and reenacted; that §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28; that said code be amended by adding thereto a new section, designated §16-29B-5a; that said code be amended by adding thereto a new section, designated §16-29B-30; that said code be amended by adding thereto a new section, designated §16-29G-1a; that §16-29G-4 of said code be amended and reenacted; that §21-5F-4 of said code be amended and reenacted; that §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6, and §33-4A-7 of said code be amended and reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**ARTICLE 1. GENERAL PROVISIONS.****§5F-1-3a. Executive compensation commission.**

There is hereby created an executive compensation commission composed of three members, one of whom shall be the secretary of administration, one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the President of the Senate, and one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the Speaker of the House of Delegates. The names of such nominees shall be submitted to the Governor by not later than June 1, 2000, and the appointment of such members shall be made by the Governor by not later than July 1, 2000. The members appointed by the Governor shall have had significant business management experience at the time of their appointment and shall serve without compensation other than reimbursement for their reasonable expenses necessarily incurred in the performance of their commission duties. For the 2001 regular session of the Legislature and every four years thereafter, the commission shall review the compensation for cabinet secretaries and other appointed officers of this state, including, but not limited to, the following: Commissioner, Division of Highways; commissioner, Bureau of Employment Programs; director, Division of Environmental Protection; commissioner, Bureau of Senior Services; director of tourism; commissioner, division of tax; administrator, division of health; commissioner, Division of Corrections; director, Division of Natural Resources; superintendent, state police; administrator, lottery division; director, Public Employees Insurance Agency; administrator, Alcohol Beverage Control Commission; commissioner, Division of Motor Vehicles; director, Division of Personnel; Adjutant General; ~~chairman, Health Care Authority; members, Health Care Authority~~ the Executive Director of the Health Care Authority; director, Division of Rehabilitation Services; executive director, educational broadcasting authority; executive secretary, Library Commission; chairman and members of the Public Service Commission; director of emergency services; administrator, division of human services; executive director, Human Rights Commission; director, division of Veterans Affairs; director, office of miner's health safety and training; commissioner, Division of Banking; commissioner, division of insurance; commissioner, Division of Culture and History; commissioner, Division of Labor; director, Prosecuting Attorneys Institute; director, Board of Risk and Insurance Management; commissioner, oil and gas conservation commission; director, geological and economic survey; executive director, water development authority; executive director, Public Defender Services; director, state rail authority; chairman and members of the Parole Board; members, employment security review board; members, workers' compensation appeal board; chairman, Racing Commission; executive director, women's commission; and director, hospital finance authority.

Following this review, but not later than the twenty-first day of such regular session, the commission shall submit an executive compensation report to the Legislature to include specific recommendations for adjusting the compensation for the officers described in this section. The recommendation may be in the form of a bill to be introduced in each house to amend this section to incorporate the recommended adjustments.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**ARTICLE 7. COMPENSATION AND ALLOWANCES.****§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.**

(a) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer is as follows:

Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections, \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police, \$85,000; Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; ~~Chairman, Health Care Authority, \$80,000; members, Health Care Authority, \$70,000~~ Director, Human Rights Commission, \$55,000; Commissioner, Division of Labor, \$70,000; prior to July 1, 2011, Director, Division of Veterans Affairs, \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of Parole, \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer specified in this subsection whose salary is increased by more than \$5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, \$80,000; Director, Division of Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director, Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director, Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute, \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of Forestry, \$75,000; Director, Division of Juvenile Services, \$80,000; ~~and Executive Director, Regional Jail and Correctional Facility Authority, \$80,000~~ and Executive Director of the Health Care Authority, \$80,000.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the

functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director, Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency Management, \$65,000; and Adjutant General, \$125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section may be paid until and unless the appointive state officer has first filed with the State Auditor and the Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying that his or her spending unit is in compliance with any general law providing for a salary increase for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units.

CHAPTER NINE. HUMAN SERVICES.

ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCEMENT ACT.

§9-4C-7. Powers and duties.

(a) Each board created pursuant to this article shall:

(1) Develop, recommend and review reimbursement methodology where applicable, and develop and recommend a reasonable provider fee schedule, in relation to its respective provider groups, so that the schedule conforms with federal Medicaid laws and remains within the limits of annual funding available to the single state agency for the Medicaid program. In developing the fee schedule the board may refer to a nationally published regional specific fee schedule, if available, as selected by the secretary in accordance with section eight of this article. The board may consider identified health care priorities in developing its fee schedule to the extent permitted by applicable federal Medicaid laws, and may recommend higher reimbursement rates for basic primary and preventative health care services than for other services. In identifying basic primary and preventative health care services, the board may consider factors, including, but not limited to, services defined and prioritized by the basic services task force of the health care planning commission in its report issued in December of the year 1992; and minimum benefits and coverages for policies of insurance as set forth in section fifteen, article fifteen, chapter thirty-three of this code and section four, article sixteen-c of said chapter and rules of the Insurance Commissioner promulgated thereunder. If the single state agency approves the adjustments to the fee schedule, it shall implement the provider fee schedule;

(2) Review its respective provider fee schedule on a quarterly basis and recommend to the single state agency any adjustments it considers necessary. If the single state agency approves any of the board's recommendations, it shall immediately implement those adjustments and shall report the same to the Joint Committee on Government and Finance on a quarterly basis;

(3) Assist and enhance communications between participating providers and the Department of Health and Human Resources;

(4) Meet and confer with representatives from each specialty area within its respective provider group so that equity in reimbursement increases or decreases may be achieved to the greatest extent possible and when appropriate to meet and confer with other provider boards; and

(5) Appoint a chairperson to preside over all official transactions of the board.

(b) Each board may carry out any other powers and duties as prescribed to it by the secretary.

(c) Nothing in this section gives any board the authority to interfere with the discretion and judgment given to the single state agency that administers the state's Medicaid program. If the single state agency disapproves the recommendations or adjustments to the fee schedule, it is expressly authorized to make any modifications to fee schedules as are necessary to ensure that total financial requirements of the agency for the current fiscal year with respect to the state's Medicaid plan are met and shall report such modifications to the Joint Committee on Government and Finance on a quarterly basis. The purpose of each board is to assist and enhance the role of the single state agency in carrying out its mandate by acting as a means of communication between the health care provider community and the agency.

(d) In addition to the duties specified in subsection (a) of this section, the ambulance service provider Medicaid board shall ~~work with the health care cost review authority to develop a method for regulating rates charged by ambulance services. The health care cost review authority shall report its findings to the Legislature by January 1, 1994. The costs of the report shall be paid by the health care cost review authority. In this capacity only, the chairperson of the health care cost review authority shall serve as an ex officio, nonvoting member of the board~~

(e) On a quarterly basis, the single state agency and the board shall report the status of the fund, any adjustments to the fee schedule and the fee schedule for each health care provider identified in section two of this article to the Joint Committee on Government and Finance.

§9-4C-8. Duties of secretary of Department of Health and Human Resources.

(a) The secretary, or his or her designee, shall serve on each board created pursuant to this article as an ex officio, nonvoting member and shall keep and maintain records for each board.

(b) In relation to outpatient hospital services, the secretary shall ~~cooperate with the health care cost review authority to~~ furnish information needed for reporting purposes. This information includes, but is not limited to, the following:

(1) For each hospital, the amount of payments and related billed charges for hospital outpatient services each month;

(2) The percentage of the state's share of Medicaid program financial obligation from time to time as necessary; and

(3) Any other financial and statistical information necessary ~~for the health care cost review authority to~~ determine the net effect of any cost shift.

(c) The secretary shall determine an appropriate resolution for conflicts arising between the various boards.

(d) The secretary shall purchase nationally published fee schedules to be used, if available, as a reference by the Medicaid enhancement boards in developing fee schedules.

CHAPTER 11. TAXATION.

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-9. Imposition of tax on providers of inpatient hospital services.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of providing inpatient hospital services, there is hereby levied and shall be collected from every person rendering such service an annual broad-based health care related tax: ~~Provided, That a hospital which meets all the requirements of section twenty-one, article twenty-nine-b, chapter sixteen of this code and regulations thereunder may change or amend its schedule of rates to the extent necessary to compensate for the tax in accordance with the following procedures:~~

~~(1) The health care cost review authority shall allow a temporary change in a hospital's rates which may be effective immediately upon filing and in advance of review procedures when a hospital files a verified claim that such temporary rate changes are in the public interest, and are necessary to prevent insolvency, to maintain accreditation or for emergency repairs or to relieve undue financial hardship. The verified claim shall state the facts supporting the hospital's position, the amount of increase in rates required to alleviate the situation and shall summarize the overall effect of the rate increase. The claim shall be verified by either the chairman of the hospital's governing body or by the chief executive officer of the hospital.~~

~~(2) Following receipt of the verified claim for temporary relief, the health care cost review authority shall review the claim through its usual procedures and standards; however, this power of review does not affect the hospital's ability to place the temporary rate increase into effect immediately. The review of the hospital's claim shall be for a permanent rate increase and the health care cost review authority may include such other factual information in the review as may be necessary for a permanent rate increase review. As a result of its findings from the permanent review, the health care cost review authority may allow the temporary rate increase to become permanent, to deny any increase at all, to allow a lesser increase, or to allow a greater increase.~~

~~(3) When any change affecting an increase in rates goes into effect before a final order is entered in the proceedings, for whatever reasons, where it deems it necessary and practicable, the health care cost review authority may order the hospital to keep a detailed and accurate account of all amounts received by reason of the increase in rates and the purchasers and third-party payors from whom such amounts were received. At the conclusion of any hearing, appeal or other proceeding, the health care cost review authority may order the hospital to refund with interest to each affected purchaser and/or third-party payor any part of the increase in rates that may be held to be excessive or unreasonable. In the event a refund is not practicable, the hospital shall, under appropriate terms and conditions determined by the health care cost review authority, charge over and amortize by means of a temporary decrease in rates whatever income is realized from that portion of the increase in rates which was subsequently held to be excessive or unreasonable.~~

~~(4) The health care cost review authority, upon a determination that a hospital has overcharged purchasers or charged purchasers at rates not approved by the health care cost review authority or charged rates which were subsequently held to be excessive or unreasonable, may prescribe rebates to purchasers and third-party payors in effect by the aggregate total of the overcharge.~~

~~(5) the rate adjustment provided for in this section is limited to a single adjustment during the initial year of the imposition of the tax provided for in this section.~~

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section shall be two and one-half percent of the gross receipts derived by the taxpayer from furnishing inpatient hospital services in this state.

(c) *Definitions.* —

(1) 'Gross receipts' means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for inpatient hospital services furnished by the provider, including retroactive adjustments under reimbursement agreements with third-party payors, without any deduction for any expenses of any kind: *Provided*, That accrual basis providers shall be allowed to reduce gross receipts by their contractual allowances, to the extent such allowances are included therein, and by bad debts, to the extent the amount of such bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) 'Contractual allowances' means the difference between revenue (gross receipts) at established rates and amounts realizable from third-party payors under contractual agreements.

(3) 'Inpatient hospital services' means those services that are inpatient hospital services for purposes of Section 1903(w) of the Social Security Act.

~~(d) *Effective date.* — The tax imposed by this section shall apply to gross receipts received or receivable by providers after May 31, 1993.~~

§11-27-11. Imposition of tax on providers of nursing facility services, other than services of intermediate care facilities for individuals with an intellectual disability.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of providing nursing facility services, other than those services of intermediate care facilities for individuals with an intellectual disability, there is levied and shall be collected from every person rendering such service an annual broad-based health care-related tax: ~~*Provided*, That hospitals which provide nursing facility services may adjust nursing facility rates to the extent necessary to compensate for the tax: without first obtaining approval from the Health Care Authority *Provided*, however, That the rate adjustment is limited to a single adjustment during the initial year of the imposition of the tax which adjustment is exempt from prospective review by the Health Care Authority and further which is limited to an amount not to exceed the amount of the tax which is levied against the hospital for the provision of nursing facility services pursuant to this section. The Health Care Authority shall retroactively review the rate increases implemented by the hospitals under this section during the regular rate review process. A hospital which fails to meet the criteria established by this section for a rate increase exempt from prospective review is subject to the penalties imposed under article twenty-nine-b, chapter sixteen of the code.~~

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five and one-half percent of the gross receipts derived by the taxpayer from furnishing nursing facility services in this state, other than services of intermediate care facilities for individuals with an intellectual disability. ~~This rate shall be increased to five and seventy-two one hundredths percent of the gross receipts received or receivable by providers of nursing facility services on and after October 1, 2015, and shall again be decreased to five and one-half percent of the gross receipts received or receivable by providers of nursing services after June 30, 2016.~~

(c) *Definitions.* —

(1) 'Gross receipts' means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for nursing facility services furnished by the provider, including retroactive adjustments under reimbursement agreements with third-party payors, without any deduction for any expenses of any kind: *Provided*, That accrual basis providers are allowed to reduce gross receipts by their bad debts, to the extent the amount of those bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) 'Nursing facility services' means those services that are nursing facility services for purposes of §1903(w) of the Social Security Act.

~~(d) *Effective date.* — The tax imposed by this section applies to gross receipts received or receivable by providers after May 31, 1993.~~

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-2. Definitions.

As used in this article:

(1) 'Affected person' means:

(A) The applicant;

(B) An agency or organization representing consumers;

(C) An individual residing within the geographic area but within this state served or to be served by the applicant;

(D) An individual who regularly uses the health care facilities within that geographic area;

(E) A health care facility located within this state which provide services similar to the services of the facility under review and which will be significantly affected by the proposed project;

(F) A health care facility located within this state which, before receipt by the authority of the proposal being reviewed, ~~have~~ has formally indicated an intention to provide similar services within this state in the future;

(G) Third-party payors who reimburse health care facilities within this state; ~~similar to those proposed for services or~~

~~(H) An agency that establishes rates for health care facilities within this state similar to those proposed; or~~

~~(H)~~ (H) An organization representing health care providers;

(2) 'Ambulatory health care facility' means a facility that provides health services to noninstitutionalized and nonhomebound persons on an outpatient basis;

(3) 'Ambulatory surgical facility' means a facility not physically attached to a health care facility that provides surgical treatment to patients not requiring hospitalization;

(4) 'Applicant' means a person ~~proposing a proposed health service~~ applying for a certificate of need, exemption or determination of review;

(5) 'Authority' means the West Virginia Health Care Authority as provided in article twenty-nine-b of this chapter;

(6) 'Bed capacity' means the number of beds licensed to a health care facility or the number of adult and pediatric beds permanently staffed and maintained for immediate use by inpatients in patient rooms or wards in an unlicensed facility;

(7) 'Behavioral health services' means services provided for the care and treatment of persons with mental illness or developmental disabilities; ~~in an inpatient or outpatient setting~~

(8) 'Birthing center' means a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy;

(9) 'Campus' means the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health care facility;

(10) 'Capital expenditure' means:

(A) (i) An expenditure made by or on behalf of a health care facility, which:

(i) (I) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(ii) (II) Is made to obtain either by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

~~(B)~~(i) (ii) (I) Exceeds the expenditure minimum;

(iii) (II) Is a substantial change to the bed capacity of the facility with respect to which the expenditure is made; or

(iii) (III) Is a substantial change to the services of such facility;

~~(C)~~ (B) The transfer of equipment or facilities for less than fair market value if the transfer of the equipment or facilities at fair market value would be subject to review; or

~~(D)~~ (C) A series of expenditures, if the sum total exceeds the expenditure minimum and if determined by the ~~state agency authority~~ to be a single capital expenditure subject to review. In making this determination, the ~~state agency authority~~ shall consider: Whether the expenditures are for components of a system which is required to accomplish a single purpose; or whether the expenditures are to be made within a two-year period within a single department such that they will constitute a significant modernization of the department.

(11) 'Charges' means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

(12) 'Community mental health and intellectual disability facility' means a facility which provides comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient or consultation and education for individuals with mental illness, intellectual disability;

(13) 'Diagnostic imaging' means the use of radiology, ultrasound, mammography,

(14) 'Drug and Alcohol Rehabilitation Services' means a medically or psychotherapeutically supervised process for assisting individuals ~~on an inpatient or outpatient basis~~ through the processes of withdrawal from dependency on psychoactive substances;

(15) 'Expenditure minimum' means the cost of acquisition, improvement, expansion of any facility, equipment, or services including the cost of any studies, surveys, designs, plans, working drawings, specifications and other activities, including staff effort and consulting at and above \$5 million;

(16) 'Health care facility' means a publicly or privately owned facility, agency or entity that offers or provides health services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be licensed, in whole or in part;

(17) 'Health care provider' means a person authorized by law to provide professional health service services in this state to an individual;

(18) 'Health services' means clinically related preventive, diagnostic, treatment or rehabilitative services;

(19) 'Home health agency' means an organization primarily engaged in providing professional nursing services either directly or through contract arrangements and at least one of the following services:

(A) Home health aide services;

(B) Physical therapy;

(C) Speech therapy;

(D) Occupational therapy;

(E) Nutritional services; or

(F) Medical social services to persons in their place of residence on a part-time or intermittent basis.

(20) 'Hospice' means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of a licensed hospice program which provides palliative and supportive medical and other health services to terminally ill individuals and their families.

(21) 'Hospital' means a facility licensed pursuant to the provisions of article five-b of this chapter and any acute care facility operated by the state government, that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the supervision of physicians.

(22) 'Intermediate care facility' means an institution that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility.

(23) 'Like equipment' means medical equipment in which functional and technological capabilities are similar to the equipment being replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and it does not constitute a substantial change in health service or a proposed health service.

(24) 'Major medical equipment' means a single unit of medical equipment or a single system of components with related functions which is used for the provision of medical and other health services and costs in excess of the expenditure minimum. This term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical

laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ten and eleven, Section 1861(s) of such act, Title 42 U.S.C. §1395x. In determining whether medical equipment is major medical equipment, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term 'cost' includes the fair market value.

(25) 'Medically underserved population' means the population of an area designated by the authority as having a shortage of a specific health service.

(26) 'Nonhealth-related project' means a capital expenditure for the benefit of patients, visitors, staff or employees of a health care facility and not directly related to health services offered by the health care facility.

(27) 'Offer' means the health care facility holds itself out as capable of providing, or as having the means to provide, specified health services.

(28) 'Opioid treatment program' means as that term is defined in article five-y of chapter sixteen.

~~(28)~~ (29) 'Person' means an individual, trust, estate, partnership, limited liability corporation, committee, corporation, governing body, association and other organizations such as joint-stock companies and insurance companies, a state or a political subdivision or instrumentality thereof or any legal entity recognized by the state.

~~(29)~~ (30) 'Personal care agency' means an entity that provides personal care services approved by the Bureau of Medical Services.

~~(30)~~ (31) 'Personal care services' means personal hygiene; dressing; feeding; nutrition; environmental support and health-related tasks provided by a personal care agency.

~~(31)~~ (32) 'Physician' means an individual who is licensed practice allopathic medicine by the board of Medicine or licensed to practice osteopathic medicine by the board of osteopathy to practice in West Virginia-Osteopathic Medicine.

~~(32)~~ (33) 'Proposed health service' means any service as described in section eight of this article.

~~(33)~~ (34) 'Purchaser' means an individual who is directly or indirectly responsible for payment of patient care services rendered by a health care provider, but does not include third-party payers.

~~(34)~~ (35) 'Rates' means charges imposed by a health care facility for health services.

~~(35)~~ (36) 'Records' means accounts, books and other data related to health service costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy

~~(36)~~ (37) 'Rehabilitation facility' means an inpatient facility licensed in West Virginia operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services.

~~(37)~~ (38) 'Related organization' means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care facility through common membership, governing bodies,

trustees, officers, stock ownership, family members, partners or limited partners, including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subdivision 'family members' means parents, children, brothers and sisters whether by the whole or half blood, spouse, ancestors and lineal descendants.

(39) 'Secretary' means the Secretary of the West Virginia Department of Health and Human Resources;

~~(38)~~ (40) 'Skilled nursing facility' means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled or sick persons.

~~(39)~~ (41) 'Standard' means a health service guideline developed by the authority and instituted under section six.

~~(40)~~ (42) 'State health plan' means a document prepared by the authority that sets forth a strategy for future health service needs in ~~the~~ this state.

~~(41)~~ (43) 'Substantial change to the bed capacity' of a health care facility means any change, associated with a capital expenditure, that increases or decreases the bed capacity or relocates beds from one physical facility or site to another, but does not include a change by which a health care facility reassigns existing beds. ~~as swing beds between acute care and long-term care categories or a decrease in bed capacity in response to federal rural health initiatives~~

~~(43)~~ (44) 'Substantial change to the health services' means:

(A) The addition of a health service offered by or on behalf of the health care facility which was not offered by or on behalf of the facility within the twelve-month period before the month in which the service ~~is~~ was first offered; or

(B) The termination of a health service offered by or on behalf of the facility but does not include the termination of ambulance service, wellness centers or programs, adult day care or respite care by acute care facilities.

(45) 'Telehealth' means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration.

~~(44)~~ (46) 'Third-party payor' means an individual, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

~~(45)~~ (47) 'To develop' means to undertake those activities which upon their completion will result in the offer of a proposed health service or the incurring of a financial obligation in relation to the offering of such a service.

§16-2D-3. Powers and duties of the authority.

(a) The authority shall:

(1) Administer the certificate of need program;

(2) Review the state health plan, the certificate of need standards, and the cost effectiveness of the certificate of need program and make any amendments and modifications to each that it may deem necessary, no later than September 1, 2017, and biennially thereafter.

(3) Shall adjust the expenditure minimum annually and publish to its website the updated amount on or before December 31, of each year. The expenditure minimum adjustment shall be based on the DRI inflation index. ~~published in the Global Insight DRI/WEFA Health Care Cost Review~~

(4) Create a standing advisory committee to advise and assist in amending the state health plan, the certificate of need standards, and performing the state agencies' responsibilities.

(b) The authority may:

(1) (A) Order a moratorium upon the offering or development of a health service when criteria and guidelines for evaluating the need for the health service have not yet been adopted or are obsolete or when it determines that the proliferation of the health service may cause an adverse impact on the cost of health services or the health status of the public.

(B) A moratorium shall be declared by a written order which shall detail the circumstances requiring the moratorium. Upon the adoption of criteria for evaluating the need for the health service affected by the moratorium, or one hundred eighty days from the declaration of a moratorium, whichever is less, the moratorium shall be declared to be over and applications for certificates of need are processed pursuant to section eight.

~~(2) Issue grants and loans to financially vulnerable health care facilities located in underserved areas that the authority and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.~~

~~(3)~~ (2) Approve an emerging health service or technology for one year.

~~(4)~~ (3) Exempt from certificate of need or annual assessment requirements to financially vulnerable health care facilities located in underserved areas that the state agency and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.

§16-2D-4. Rule-making Authority Rulemaking.

(a) The authority shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the following:

(1) Information a person shall provide when applying for a certificate of need;

(2) Information a person shall provide when applying for an exemption;

(3) Process for the issuance of grants and loans to financially vulnerable health care facilities located in underserved areas;

~~(4) The required~~ Information a person shall provide in a letter of intent;

(5) Process for an expedited certificate of need;

(6) Determine medically underserved population. The authority may consider unusual local conditions that are a barrier to accessibility or availability of health services. The authority may

consider when making its determination of a medically underserved population designated by the federal Secretary of Health and Human Services under Section 330(b)(3) of the Public Health Service Act, as amended, Title 42 U.S.C. §254;

(7) Process to review an approved certificate of need; and

(8) Process to review approved proposed health services for which the expenditure maximum is exceeded or is expected to be exceeded.

~~(b) The authority shall propose emergency rules by December 31, 2016, to effectuate the changes to this article~~

~~(e)~~ (b) All of the authority's rules in effect and not in conflict with the provisions of this article, shall remain in effect until they are amended or rescinded.

§16-2D-5. Fee; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the ~~board~~ authority shall be deposited in a separate special revenue fund in the State Treasury which is continued and shall be known as the 'Certificate of Need Program Fund'. Expenditures from this fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

§16-2D-8. Proposed health services that require a certificate of need.

(a) Except as provided in sections nine, ten and eleven of this article, the following proposed health services may not be acquired, offered or developed within this state except upon approval of and receipt of a certificate of need as provided by this article:

(1) The construction, development, acquisition or other establishment of a health care facility;

(2) The partial or total closure of a health care facility with which a capital expenditure is associated;

(3) (A) An obligation for a capital expenditure incurred by or on behalf of a health care facility, in excess of the expenditure minimum; or

(B) An obligation for a capital expenditure incurred by a person to acquire a health care facility.

(4) An obligation for a capital expenditure is considered to be incurred by or on behalf of a health care facility:

(i) (A) When a valid contract is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(ii) (B) When the health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

~~(iii)~~ (C) In the case of donated property, on the date on which the gift is completed under state law.

(5) A substantial change to the bed capacity of a health care facility with which a capital expenditure is associated;

(6) The addition of ventilator services by a hospital;

(7) The elimination of health services previously offered on a regular basis by or on behalf of a health care facility which is associated with a capital expenditure;

(8) (A) A substantial change to the bed capacity or health services offered by or on behalf of a health care facility, whether or not the change is associated with a proposed capital expenditure;

(B) If the change is associated with a previous capital expenditure for which a certificate of need was issued; and

(C) If the change will occur within two years after the date the activity which was associated with the previously approved capital expenditure was undertaken.

(9) The acquisition of major medical equipment;

(10) A substantial change in an approved health service for which a certificate of need is in effect;

(11) An expansion of the service area for hospice or home health agency regardless of the time period in which the expansion is contemplated or made; and

(12) The addition of health services offered by or on behalf of a health care facility which were not offered on a regular basis by or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered.

(b) The following health services are required to obtain a certificate of need regardless of the minimum expenditure:

(1) Constructing, developing, acquiring or establishing of a birthing center;

(2) Providing radiation therapy;

(3) Providing computed tomography;

(4) Providing positron emission tomography;

(5) Providing cardiac surgery;

(6) Providing fixed magnetic resonance imaging;

(7) Providing comprehensive medical rehabilitation;

(8) Establishing an ambulatory care center;

(9) Establishing an ambulatory surgical center;

(10) Providing diagnostic imaging;

(11) Providing cardiac catheterization services;

(12) Constructing, developing, acquiring or establishing of kidney disease treatment centers, including freestanding hemodialysis units;

(13) Providing megavoltage radiation therapy;

(14) Providing surgical services;

(15) Establishing operating rooms;

(16) Adding acute care beds;

(17) Providing intellectual developmental disabilities services;

(18) Providing organ and tissue transplants;

(19) Establishing an intermediate care facility for individuals with intellectual disabilities;

(20) Providing inpatient services;

(21) Providing hospice services;

(22) Establishing a home health agency; and

(23) Providing personal care services.

(c) A certificate of need previously approved under this article remains in effect unless revoked by the authority.

§16-2D-9. Health services that cannot be developed.

Notwithstanding section eight and eleven, these health services require a certificate of need but the authority may not issue a certificate of need to:

(1) A health care facility adding intermediate care or skilled nursing beds to its current licensed bed complement, except as provided in subdivision twenty-three, subsection (c), section eleven;

(2) A person developing, constructing or replacing a skilled nursing facility except in the case of facilities designed to replace existing beds in existing facilities that may soon be deemed unsafe or facilities utilizing existing licensed beds from existing facilities which are designed to meet the changing health care delivery system;

(3) Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981); and

(4) An opioid treatment ~~facility~~ or program.

§16-2D-10. Exemptions from certificate of need.

Notwithstanding section eight, a person may provide the following health services without obtaining a certificate of need or applying to the authority for approval:

(1) The creation of a private office of one or more licensed health professionals to practice in this state pursuant to chapter thirty of this code;

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees that does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four hours;

(3) A place that provides remedial care or treatment of residents or patients conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination;

(4) Telehealth:

(5) A facility owned or operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory services or diagnostic imaging to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy-five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy-five percent of diagnostic imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed. The authority may, at any time, request from the entity information concerning the number of patients who have been provided laboratory services or diagnostic imaging;

(6) (A) Notwithstanding the provisions of section seventeen of this article, any hospital that holds a valid certificate of need issued pursuant to this article, may transfer that certificate of need to a person purchasing that hospital, or all or substantially all of its assets, if the hospital is financially distressed. A hospital is financially distressed if, at the time of its purchase:

(i) It has filed a petition for voluntary bankruptcy;

(ii) It has been the subject of an involuntary petition for bankruptcy;

(iii) It is in receivership;

(iv) It is operating under a forbearance agreement with one or more of its major creditors;

(v) It is in default of its obligations to pay one or more of its major creditors and is in violation of the material, substantive terms of its debt instruments with one or more of its major creditors; or

(vi) It is insolvent: evidenced by balance sheet insolvency and/or the inability to pay its debts as they come due in the ordinary course of business.

(B) A financially distressed hospital which is being purchased pursuant to the provisions of this subsection shall give notice to the authority of the sale thirty days prior to the closing of the transaction and shall file simultaneous with that notice evidence of its financial status. The financial status or distressed condition of a hospital shall be evidenced by the filing of any of the following:

(i) A copy of a forbearance agreement;

(ii) A copy of a petition for voluntary or involuntary bankruptcy;

(iii) Written evidence of receivership, or

(iv) Documentation establishing the requirements of subparagraph (v) or (vi), paragraph (A) of this subdivision. The names of creditors may be redacted by the filing party.

(C) Any substantial change to the capacity of services offered in that hospital made subsequent to that transaction would remain subject to the requirements for the issuance of a certificate of need as otherwise set forth in this article.

(D) Any person purchasing a financially distressed hospital, or all or substantially all of its assets, that has applied for a certificate of need after January 1, 2017, shall qualify for an exemption from certificate of need;

(7) The acquisition by a qualified hospital which is party to an approved cooperative agreement as provided in section twenty-eight, article twenty-nine-b, chapter sixteen of this code, of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital; and

(8) The acquisition by a hospital of a physician practice group which owns an ambulatory surgical center as defined in this article.

§16-2D-11. Exemptions from certificate of need which require approval from the authority.

(a) To obtain an exemption under this section a person shall:

(1) File an exemption application;

(2) Pay the \$1,000 application fee; and

(3) Provide a statement detailing which exemption applies and the circumstances justifying the approval of the exemption.

(b) The authority has forty-five days to review the exemption request. The authority may not hold an administrative hearing to review the application. ~~An affected party~~ A person may not file an objection to the request for an exemption. The applicant may request or agree with the authority to a fifteen day extension of the timeframe. If the authority does not approve or deny the application within forty-five days, then the exemption is immediately approved. If the authority denies the approval of the exemption, only the applicant may appeal the authority's decision to the Office of Judges or refile the application with the authority. ~~The Office of Judges shall follow the procedure provided in section sixteen to perform the review~~

(c) Notwithstanding section eight and ten and except as provided in section nine of this article, the Legislature finds that a need exists and these health services are exempt from the certificate of need process:

(1) ~~A computed tomography scanner that is installed in a private office practice where at minimum seventy-five percent of the scans are for the patients of the practice and the fair market value of the installation and purchase is less than \$250,000 for calendar year 2016. The authority shall adjust the dollar amount specified in this subdivision annually and publish an update of the amount on or before December 31, of each year. The adjustment of the dollar amount shall be based on the DRI inflation index, published in the Global Insight DRI/AWEFA Health Care Cost Review. The authority may at any~~

~~time request from the private office practice information concerning the number of patients who have been provided scans;~~

The acquisition and utilization of one computed tomography scanner with a purchase price up to \$750,000 that is installed in a private office practice where at minimum seventy-five percent of the scans are performed on the patients of the practice. The private office practice shall obtain and maintain accreditation from the American College of Radiology prior to, and at all times during, the offering of this service. The authority may at any time request from the private office practice information relating to the number of patients who have been provided scans and proof of active and continuous accreditation from the American College of Radiology. If a physician owns or operates a private office practice in more than one location, this exemption shall only apply to the physician's primary place of business and if a physician wants to expand the offering of this service to include more than one computed topography scanner, he or she shall be required to obtain a certificate of need prior to expanding this service. All current certificates of need issued for computed tomography services, with a required percentage threshold of scans to be performed on patients of the practice in excess of seventy-five percent, shall be reduced to seventy-five percent: *Provided*, That these limitations on the exemption for a private office practice with more than one location shall not apply to a private office practice with more than twenty locations in the state at the time of the changes made to this article during the 2017 Regular Session of the Legislature.

(2) (A) A birthing center established by a nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.

(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

(3) (A) A health care facility acquiring major medical equipment, adding health services or obligating a capital expenditure to be used solely for research;

(B) To qualify for this exemption, the health care facility shall show that the acquisition, offering or obligation will not:

(i) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(ii) Result in a substantial change to the bed capacity of the facility; or

(iii) Result in a substantial change to the health services of the facility.

(C) For purposes of this subdivision, the term 'solely for research' includes patient care provided on an occasional and irregular basis and not as part of a research program;

(4) The obligation of a capital expenditure to acquire, either by purchase, lease or comparable arrangement, the real property, equipment or operations of a skilled nursing facility: *Provided*, That a skilled nursing facility developed pursuant to subdivision (17) of this section and subsequently acquired pursuant to this subdivision may not transfer or sell any of the skilled nursing home beds of

the acquired skilled nursing facility until the skilled nursing facility has been in operation for at least ten years.

(5) Shared health services between two or more hospitals licensed in West Virginia providing health services made available through existing technology that can reasonably be mobile. This exemption does not include providing mobile cardiac catheterization;

(6) The acquisition, development or establishment of a certified interoperable electronic health record or electronic medical record system;

(7) The addition of forensic beds in a health care facility;

(8) A behavioral health service selected by the Department of Health and Human Resources in response to its request for application for services intended to return children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a certificate of need;

(9) The replacement of major medical equipment with like equipment, only if the replacement major medical equipment cost is more than the expenditure minimum;

(10) Renovations within a hospital, only if the renovation cost is more than the expenditure minimum. The renovations may not expand the health care facility's current square footage, incur a substantial change to the health services, or a substantial change to the bed capacity;

(11) Renovations to a skilled nursing facility;

(12) The construction, development, acquisition or other establishment by a ~~licensed West Virginia~~ hospital of an ambulatory health care facility in the county in which it is located; ~~and in a contiguous county within or outside this state~~

(13) The donation of major medical equipment to replace like equipment for which a certificate of need has been issued and the replacement does not result in a substantial change to health services. This exemption does not include the donation of major medical equipment made to a health care facility by a related organization;

(14) A person providing specialized foster care personal care services to one individual and those services are delivered in the provider's home;

(15) A hospital converting the use of beds except a hospital may not convert a bed to a skilled nursing home bed and conversion of beds may not result in a substantial change to health services provided by the hospital;

(16) The construction, renovation, maintenance or operation of a state owned veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter;

(17) ~~A nonprofit community group designated by a county to develop and operate a nursing home bed facility with no more than thirty-six beds in any county in West Virginia that currently is without a skilled nursing facility;~~

To develop and operate a skilled nursing facility with no more than thirty-six beds in a county that currently is without a skilled nursing facility;

(18) A critical access hospital, designated by the state as a critical access hospital, after meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it reopens within ten years of its closure;

(19) The establishing of a health care facility or offering of health services for children under one year of age suffering from Neonatal Abstinence Syndrome;

(20) The construction, development, acquisition or other establishment of community mental health and intellectual disability facility;

(21) Providing behavioral health facilities and services;

(22) The construction, development, acquisition or other establishment of kidney disease treatment centers, including freestanding hemodialysis units but only to a medically underserved population;

(23) ~~The transfer, or acquisition of intermediate care or skilled nursing beds from an existing health care facility to a nursing home providing intermediate care and skilled nursing services~~ purchase or sale of intermediate care or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care hospital to a skilled nursing facility providing intermediate care and skilled nursing services. No state agency may deny payment to an acquiring nursing home or place any restrictions on the beds transferred under this subsection. The transferred beds shall retain the same certification status that existed at the nursing home or hospital skilled nursing unit from which they were acquired. If construction is required to place the transferred beds into the acquiring nursing home, the acquiring nursing home has one year from the date of purchase to commence construction;

(24) The construction, development, acquisition or other establishment by a health care facility of a nonhealth related project, only if the nonhealth related project cost is more than the expenditure minimum;

~~(25) A facility owned or operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory or imaging services to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy five percent of imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed;~~

~~(26)~~ (25) The construction, development, acquisition or other establishment of an alcohol or drug treatment facility and drug and alcohol treatment services unless the construction, development, acquisition or other establishment is an opioid treatment facility or programs as set forth in subdivision (4) of section nine of this article;

~~(27)~~ (26) Assisted living facilities and services; and

~~(28)~~ (27) The creation, construction, acquisition or expansion of a community-based nonprofit organization with a community board that provides or will provide primary care services to people without regard to ability to pay and receives approval from the Health Resources and Services Administration.

§16-2D-13. Procedures for certificate of need reviews.

(a) An application for a certificate of need shall be submitted to the authority prior to the offering or ~~development~~ developing of a proposed health service.

(b) A person proposing a proposed health service shall:

(1) Submit a letter of intent ten days prior to submitting the certificate of need application. If the tenth day falls on a weekend or holiday, the certificate of need application shall be filled on the next business day. The information required within the letter of intent shall be detailed by the authority in legislative rule;

(2) Submit the appropriate application fee;

(A) Up to \$1,500,000 a fee of \$1,500.00;

(B) From \$1,500,001 to \$ 5,000,000 a fee of \$5,000.00;

(C) From \$5,000,001 to 25,000,000 a fee of \$25,000.00; and

(D) From \$25,000,001 and above a fee of \$35,000.00.

(3) Submit to the Director of the Office of Insurance Consumer Advocacy a copy of the application;

(c) The authority shall determine if the submitted application is complete within ten days of receipt of the application. The authority shall provide written notification to the applicant of this determination. If the authority determines an application to be incomplete, the authority may request additional information from the applicant.

(d) Within five days of receipt of a letter of intent, the authority shall provide notification to the public through a newspaper of general circulation in the area where the health service is being proposed and by placing of copy of the letter of intent on its website. The newspaper notice shall contain a statement that, further information regarding the application is on the authority's web site.

(e) The authority may batch completed applications for review on the fifteenth day of the month or the last day of month in which the application is deemed complete.

(f) When the application is submitted, ten days after filing the letter of intent, the application shall be placed on the authority's website.

(g) An affected party has thirty days starting from the date the application is batched to request the authority hold an administrative hearing.

(1) A hearing order shall be approved by the authority within fifteen days from the last day an affected person may requests an administrative hearing on a certificate of need application.

(2) A hearing shall take place no later than three months from that date the hearing order was approved by the authority.

(3) The authority shall conduct the administrative hearing in accordance with administrative hearing requirements in section twelve, article twenty-nine-b of this chapter and article five, chapter twenty-nine-a of this code.

(4) In the administrative hearing an affected person has the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the public hearing. An affected person may conduct reasonable questioning of persons who make factual allegations relevant to its certificate of need application.

(5) The authority shall maintain a verbatim record of the administrative hearing.

(6) After the commencement of the administrative hearing on the application and before a decision is made with respect to it, there may be no ex parte contacts between:

(A) The applicant for the certificate of need, any person acting on behalf of the applicant or holder of a certificate of need or any person opposed to the issuance of a certificate for the applicant; and

(B) Any person in the authority who exercises any responsibility respecting the application.

(7) The authority may not impose fees to hold the administrative hearing.

(8) The authority shall render a decision within forty-five days of the conclusion of the administrative hearing.

(h) If an administrative hearing is not conducted during the review of an application, the authority shall provide a file closing date five days after an affected party may no longer request an administrative hearing, after which date no other factual information or evidence may be considered in the determination of the application for the certificate of need. A detailed itemization of documents in the authority's file on a proposed health service shall, on request, be made available by the authority at any time before the file closing date.

(i) The extent of additional information received by the authority from the applicant for a certificate of need after a review has begun on the applicant's proposed health service, with respect to the impact on the proposed health service and additional information which is received by the authority from the applicant, may be cause for the authority to determine the application to be a new proposal, subject to a new review cycle.

(j) The authority shall have five days to provide the written status update upon written request by the applicant or an affected person. The status update shall include the findings made in the course of the review and any other appropriate information relating to the review.

(k) (1) The authority shall annually prepare and publish to its website, a status report of each ongoing and completed certificate of need application reviews.

(2) For a status report of an ongoing review, the authority shall include in its report all findings made during the course of the review and any other appropriate information relating to the review.

(3) For a status report of a completed review, the authority shall include in its report all the findings made during the course of the review and its detailed reasoning for its final decision.

(l) The authority shall provide for access by the public to all applications reviewed by the authority and to all other pertinent written materials essential to agency review.

§16-2D-15. Agency Authority to render final decision; issue certificate of need; write findings; specify capital expenditure maximum.

(a) The authority shall render a final decision on an application for a certificate of need in the form of an approval, a denial or an approval with conditions. The final decision with respect to a certificate of need shall be based solely on:

(1) The authority's review conducted in accordance with procedures and criteria in this article and the certificate of need standards; and

(2) The record established in the administrative hearing held with respect to the certificate of need.

(b) Approval with conditions does not give the authority the ability to mandate a health service not proposed by the health care facility. Issuance of a certificate of need or exemption may not be made subject to any condition unless the condition directly relates to criteria in this article, or in the certificate of need standards. Conditions may be imposed upon the operations of the health care facility for not longer than a three-year period.

(c) The authority shall send its decision along with written findings to the person proposing the proposed health service or exemption and shall make it available to others upon request.

(d) In the case of a final decision to approve or approve with conditions a proposal for a proposed health service, the authority shall issue a certificate of need to the person proposing the proposed health service.

(e) The authority shall specify in the certificate of need the maximum amount of capital expenditures which may be obligated. The authority shall adopt legislative rules pursuant to section four to prescribe the method used to determine capital expenditure maximums and a process to review the implementation of an approved certificate of need for a proposed health service for which the capital expenditure maximum is exceeded or is expected to be exceeded.

§16-2D-16. Appeal of certificate of need a decision.

(a) ~~The authority's final decision shall upon request of an affected person be reviewed by the Office of Judges~~ An applicant or an affected person may appeal the authority's final decision in a certificate of need review to the Office of Judges. The request shall be received within thirty days after the date of the authority's decision. The appeal hearing shall commence within thirty days of receipt of the request.

(b) The Office of Judges shall conduct its proceedings in conformance with the West Virginia Rules of Civil Procedure for trial courts of record and the local rules for use in the civil courts of Kanawha County and shall review appeals in accordance with the provisions governing the judicial review of contested administrative cases in article five, chapter twenty-nine-a of this code.

(c) The decision of the Office of Judges shall be made in writing within forty-five days after the conclusion of the hearing.

(d) The written findings of the Office of Judges shall be sent to the person who requested the ~~review~~ appeal, to the person proposing the proposed health service and to the authority, and shall be made available by the authority to others upon request.

(e) The decision of the Office of Judges shall be considered the final decision of the authority; however, the Office of Judges may remand the matter to the authority for further action or consideration.

(f) Upon the entry of a final decision by the Office of Judges, ~~a person adversely an~~ an affected by the review person may within thirty days after the date of the decision of the ~~review agency~~ Office of Judges make an appeal in the circuit court of Kanawha County. The decision of the Office of Judges shall be reviewed by the circuit court in accordance with the provisions for the judicial review of administrative decisions contained in article five, chapter twenty-nine-a of this code.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.**§16-5B-17. Healthcare-associated infection reporting.**

(a) As used in this section, the following words mean:

(1) 'Centers for Disease Control and Prevention' or 'CDC' means the United States Department of Health and Human Services Centers for Disease Control and Prevention;

(2) 'National Healthcare Safety Network' or 'NHSN' means the secure Internet-based data collection surveillance system managed by the Division of Healthcare Quality Promotion at the CDC, created by the CDC for accumulating, exchanging and integrating relevant information on infectious adverse events associated with healthcare delivery.

(3) 'Hospital' means hospital as that term is defined in subsection-e, section three, article twenty-nine-b, chapter sixteen.

(4) 'Healthcare-associated infection' means a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or a toxin of an infectious agent that was not present or incubating at the time of admission to a hospital.

(5) 'Physician' means a person licensed to practice medicine by either the board of Medicine or the board of osteopathy.

(6) 'Nurse' means a person licensed in West Virginia as a registered professional nurse in accordance with article seven, chapter thirty.

(b) ~~The West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources is hereby directed to create an Infection Control Advisory Panel whose duty is to provide guidance and oversight in implementing this section. The advisory panel shall consist of the following members:

(1) Two board-certified or board-eligible physicians, affiliated with a West Virginia hospital or medical school, who are active members of the Society for Health Care Epidemiology of America and who have demonstrated an interest in infection control;

(2) One physician who maintains active privileges to practice in at least one West Virginia hospital;

(3) Three infection control practitioners, two of whom are nurses, each certified by the Certification Board of Infection Control and Epidemiology, and each working in the area of infection control. Rural and urban practice must be represented;

(4) A statistician with an advanced degree in medical statistics;

(5) A microbiologist with an advanced degree in clinical microbiology;

(6) The Director of the Division of Disease Surveillance and Disease Control in the Bureau for Public Health or a designee; and

(7) The director of the hospital program in the office of health facilities, licensure and certification in the Bureau for Public Health.

(c) The advisory panel shall:

- (1) Provide guidance to hospitals in their collection of healthcare-associated infections;
 - (2) Provide evidence-based practices in the control and prevention of healthcare associated infections;
 - (3) Establish reasonable goals to reduce the number of healthcare-associated infections;
 - (4) Develop plans for analyzing infection-related data from hospitals;
 - (5) Develop healthcare-associated advisories for hospital distribution;
 - (6) Review and recommend to the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources the manner in which the reporting is made available to the public to assure that the public understands the meaning of the report; and
 - (7) Other duties as identified by the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources.
- (d) Hospitals shall report information on healthcare-associated infections in the manner prescribed by the CDC National Healthcare Safety Network(NHSN). The reporting standard prescribed by the CDC National Healthcare Safety Network(NHSN) ~~as adopted by the West Virginia Health Care Authority~~ shall be the reporting system of the hospitals in West Virginia.
- (e) Hospitals who fail to report information on healthcare associated infections in the manner and time frame required by the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources shall be fined the sum of \$5,000 for each such failure.
- (f) The Infection Control Advisory Panel shall provide the results of the collection and analysis of all hospital data to the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources for public availability and the Bureau for Public Health for consideration in their hospital oversight and epidemiology and disease surveillance responsibilities in West Virginia.
- (g) Data collected and reported pursuant to this act may not be considered to establish standards of care for any purposes of civil litigation in West Virginia.
- (h) ~~The West Virginia Health Care Authority shall report no later than January 15 of each year to the Legislative Oversight committee on health and human resources accountability, beginning in the year 2011. This yearly report shall include a summary of the results of the required reporting and the work of the advisory panel~~
- (i) ~~(h)~~ (h) The ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources shall require that all hospitals implement and initiate this reporting requirement ~~no later than July 1, 2009.~~

ARTICLE 29B. HEALTH CARE AUTHORITY.

~~§16-29B-2. Short title.~~

~~This article may be cited as the 'West Virginia Health Care Authority'.~~

§16-29B-2. Effective Date.

Effective the first day of July, 2017, all powers, duties and functions of the West Virginia Health Care Authority shall be transferred to the West Virginia Department of Health and Human Resources.

§16-29B-3. Definitions.

Definitions of words and terms defined in articles two-d and five-f of this chapter are incorporated in this section unless this section has different definitions.

As used in this article, unless a different meaning clearly appears from the context:

(a) 'Authority' means the Health Care Authority created pursuant to the provisions of this article;

(b) 'Board' means the five-member board of directors of the West Virginia Health Care Authority;

~~(a)~~ (c) 'Charges' means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

~~(b)~~ (d) 'Class of purchaser' means a group of potential hospital patients with common characteristics affecting the way in which their hospital care is financed. Examples of classes of purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations established and operated pursuant to article twenty-four, chapter thirty-three of this code, members of health maintenance organizations and other groups as defined by the board authority;

~~(c) 'Board' means the three-member board of directors of the West Virginia Health Care Authority, an autonomous division within the State Department of Health and Human Resources~~

(e) 'Executive Director' or 'Director' means the administrative head of the Health Care Authority as set forth in section five-a of this article;

~~(d)~~ (f) 'Health care provider' means a person, partnership, corporation, facility, hospital or institution licensed, certified or authorized by law to provide professional health care service in this state to an individual during this individual's medical, remedial, or behavioral health care, treatment or confinement. For purposes of this article, 'health care provider' shall not include the private office practice of one or more health care professionals licensed to practice in this state pursuant to the provisions of chapter thirty of this code;

~~(e)~~ (g) 'Hospital' means a facility subject to licensure as such under the provisions of article five-b of this chapter, and any acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, and does not include state mental health facilities or state long-term care facilities;

~~(f)~~ (h) 'Person' means an individual, trust, estate, partnership, committee, corporation, association or other organization such as a joint stock company, a state or political subdivision or instrumentality thereof or any legal entity recognized by the state;

~~(g)~~ (i) 'Purchaser' means a consumer of patient care services, a natural person who is directly or indirectly responsible for payment for such patient care services rendered by a health care provider, but does not include third-party payers;

~~(h)~~ (j) 'Rates' means all value given or money payable to health care providers for health care services, including fees, charges and cost reimbursements;

~~(i)~~ (k) 'Records' means accounts, books and other data related to health care costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy;

(l) 'Related organization' means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members means brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants;

(m) 'Secretary' means the Secretary of the Department of Health and Human Resources; and

~~(j)~~ (n) 'Third-party payor' means any natural person, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

~~(k) 'Related organization' means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members shall mean brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants~~

§16-29B-5. West Virginia Health Care Authority; composition of the board; qualifications; terms; oath; expenses of members; vacancies; appointment of chairman, and meetings of the board.

~~(a)~~ The 'West Virginia Health Care Cost Review Authority' is continued as an autonomous a division of the Department of Health and Human Resources and shall be known as the 'West Virginia Health Care Authority', hereinafter referred to as the authority or the board. Any references in this code to the West Virginia Health Care Cost Review Authority means the West Virginia Health Care Authority.

(b) There is created a board of review to serve as the adjudicatory body of the authority and shall conduct all hearings as required in this article, article two-d of this chapter.

~~(a)~~ (1) The board shall consist of ~~three~~ five members, appointed by the Governor, with the advice and consent of the Senate. The board members are not permitted to hold political office in the government of the state either by election or appointment while serving as a member of the board. The board members are not eligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code. The board members shall be citizens and residents of this state.

(2) No more than ~~two~~ three of the board members may be members of the same political party. One board member shall have a background in health care finance or economics, one board member shall have previous employment experience in human services, business administration or substantially related fields, one board member shall have previous experience in the administration of a health care facility, one board member shall have previous experience as a provider of health

care services, and one board member shall be a consumer of health services with a demonstrated interest in health care issues.

(3) Each member appointed by the Governor shall serve staggered terms of six years. Any member whose term has expired shall serve until his or her successor has been appointed. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. In cases of vacancy in the office of member, such vacancy shall be filled by the Governor in the same manner as the original appointment.

~~(b)~~ (4) Each board member shall, before entering upon the duties of his or her office, take and subscribe to the oath provided by section five, article IV of the Constitution of the State of West Virginia, which oath shall be filed in the office of the Secretary of State.

(5) The Governor shall designate one of the board members to serve as chairman at the Governor's will and pleasure. ~~The chairman shall be the chief administrative officer of the board.~~

(6) The Governor may remove any board member only for incompetency, neglect of duty, gross immorality, malfeasance in office or violation of the provisions of this article. ~~Appointments are for terms of six years, except that an appointment to fill a vacancy shall be for the unexpired term only~~

~~(e)~~ (7) No person while in the employ of, or holding any official relation to, any hospital or health care provider subject to the provisions of this article, or who has any pecuniary interest in any hospital or health care provider, may serve as a member of the board ~~or as an employee of the board~~. Nor may any board member be a candidate for or hold public office or be a member of any political committee while acting as a board member; nor may any board member or employee of the board receive anything of value, either directly or indirectly, from any third-party payor or health care provider. If any of the board members become a candidate for any public office or for membership on any political committee, the Governor shall remove the board member from the board and shall appoint a new board member to fill the vacancy created. No board member or former board member may accept employment with any hospital or health care provider subject to the jurisdiction of the board in violation of the West Virginia governmental ethics act, chapter six-b of this code: *Provided*, That the act ~~shall~~ may not apply to employment accepted after termination of the board.

~~(d)~~ (8) The concurrent judgment of ~~two~~ three of the board members ~~when in session as the board~~ shall be considered the action of the board. A vacancy in the board ~~shall~~ does not affect the right or duty of the remaining board members to function as a board.

(9) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law. No member may be reimbursed for expenses paid by a third party.

§16-29B-5a. Executive Director of the authority; powers and duties.

(a) The Secretary shall appoint an executive director of the authority to supervise and direct the fiscal and administrative matters of the authority. This person shall be qualified by training and experience to direct the operations of the authority. The executive director is ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code and serves at the will and pleasure of the Secretary.

(b) The executive director shall:

(1) Serve on a full-time basis and may not be engaged in any other profession or occupation;

(2) Not hold political office in the government of the state either by election or appointment while serving as executive director;

(3) Shall be a citizen of the United States and shall become a citizen of the state within ninety days of appointment; and

(4) Report to the Secretary.

(c) The executive director has other powers and duties as set forth in this article.

§16-29B-8. Powers generally; budget expenses of the board authority.

(a) In addition to the powers granted to the board authority elsewhere in this article, the board authority may:

(1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in cooperation with the Secretary, propose rules in accordance with article three, chapter twenty-nine-a of this code; Provided, That subsequent amendments and modifications to any rule promulgated pursuant to this article and not exempt from the provisions of article three, chapter twenty-nine-a of this code may be implemented by emergency rule

(2) Hold public hearings, conduct investigations and require the filing of information relating to matters affecting the costs of health care services subject to the provisions of this article and may subpoena witnesses, papers, records, documents and all other data in connection therewith. The board may administer oaths or affirmations in any hearing or investigation;

(3) Apply for, receive and accept gifts, payments and other funds and advances from the United States, the state or any other governmental body, agency or agencies or from any other private or public corporation or person (with the exception of hospitals subject to the provisions of this article, or associations representing them, doing business in the State of West Virginia, except in accordance with subsection (c) of this section), and enter into agreements with respect thereto, including the undertaking of studies, plans, demonstrations or projects. Any such gifts or payments that may be received or any such agreements that may be entered into shall be used or formulated only so as to pursue legitimate, lawful purposes of the board and shall in no respect inure to the private benefit of a board member, staff member, donor or contracting party;

(4) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell, encumber and assign rights or dispose of any property, real or personal, consistent with the objectives of the board as set forth in this article: Provided, That such acquisition or purchase of real property or construction of facilities shall be consistent with planning by the state building commissioner and subject to the approval of the Legislature

(5) Contract and be contracted with and execute all instruments necessary or convenient in carrying out the board's functions and duties; and

(6) (4) Exercise, subject to limitations or restrictions herein imposed, all other powers which are reasonably necessary or essential to effect the express objectives and purposes of this article.

(b) The board shall annually prepare a budget for the next fiscal year for submission to the Governor and the Legislature which shall include all sums necessary to support the activities of the board and its staff

~~(c) Each hospital subject to the provisions of this article shall be assessed by the board on a pro rata basis using the net patient revenue, as defined under generally accepted accounting principles, of each hospital as reported under the authority of section eighteen of this article as the measure of the hospital's obligation. The amount of such fee shall be determined by the board except that in no case shall the hospital's obligation exceed one-tenth of one percent of its net patient revenue. Such fees shall be paid on or before the first day of July in each year and shall be paid into the State Treasury and kept as a special revolving fund designated 'Health Care Cost Review Fund', with the moneys in such fund being expendable after appropriation by the Legislature for purposes consistent with this article. Any balance remaining in said fund at the end of any fiscal year shall not revert to the treasury, but shall remain in said fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal years.~~

~~(d) Each hospital's assessment shall be treated as an allowable expense by the board.~~

~~(e) The board is empowered to withhold rate approvals certificates of need and rural health system loans and grants if any such fees remain unpaid, unless exempted under subsection (g), section four, article two-d of this chapter.~~

§16-29B-12. Certificate of need hearings; administrative procedures act applicable; hearings examiner; subpoenas.

(a) The board ~~may~~ shall conduct such hearings as it deems necessary for the performance of its functions and shall hold hearings when required by the provisions of this chapter or upon a written demand ~~therefor~~ by a person aggrieved by any act or failure to act by the board regulation or order of the board. All hearings of the board pursuant to this section shall be announced in a timely manner and shall be open to the public ~~except as may be necessary to conduct business of an executive nature.~~ In making decisions in the certificate of need process, the board shall be guided by the state health plan approved by the Governor.

(b) All pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and administrative procedures in connection with and following the hearing except as specifically stated to the contrary in this article. General counsel for Department of Health and Human Resources or general counsel for the authority shall represent the interest of the authority at all hearings.

(c) Any hearing may be conducted by members of the board or by a hearing examiner appointed by the board for such purpose. ~~Any member~~ The chairperson of the board may issue subpoenas and subpoenas duces tecum which shall be issued and served pursuant to the time, fee and enforcement specifications in section one, article five, chapter twenty-nine-a of this code.

(d) Notwithstanding any other provision of state law, when a hospital alleges that a factual determination made by the board is incorrect, the burden of proof shall be on the hospital to demonstrate that such determination is, in light of the total record, not supported by substantial evidence. The burden of proof remains with the hospital in all cases.

(e) After any hearing, after due deliberation, and in consideration of all the testimony, the evidence and the total record made, the board shall render a decision in writing. The written decision shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and the copy of the decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the party demanding the hearing, and upon its attorney of record, if any.

(f) Any interested individual, group or organization shall be recognized as affected parties upon written request from the individual, group or organization. Affected parties shall have the right to bring relevant evidence before the board and testify thereon. Affected parties shall have equal access to records, testimony and evidence before the board and shall have equal access to the expertise of the ~~board's~~ authority's staff. The ~~board~~ authority, with the approval of the secretary, shall have authority to ~~develop~~ propose rules and regulations to administer provisions of this section.

(g) ~~The~~ A decision of the board is final unless reversed, vacated or modified upon judicial review thereof, in accordance with the provisions of section thirteen of this article.

§16-29B-26. Exemptions from state antitrust laws.

(a) Actions of the ~~board~~ authority shall be exempt from antitrust action under state and federal antitrust laws. Any actions of hospitals and health care providers under the ~~board's~~ authority's jurisdiction, when made in compliance with orders, directives, rules, approvals or regulations issued or promulgated by the ~~board~~ authority, shall likewise be exempt.

(b) It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and subject to supervision by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law: *Provided,* That a cooperative agreement that is not approved and subject to supervision by the authority shall not have such immunity.

§16-29B-28. Review of Cooperative agreements.

(a) *Definitions.* — As used in this section the following terms have the following meanings:

(1) 'Academic medical center' means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C. F. R. 411.355(e).

(2) 'Accredited academic hospital' means a hospital or health system that sponsor four or more approved medical education programs.

~~(2)~~ (3) 'Cooperative agreement' means an agreement between a qualified hospital which is a member of an academic medical center and one or more other hospitals or other health care providers. The agreement shall provide for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals or other health care providers.

~~(3)~~ (4) 'Commercial health plan' means a plan offered by any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.

~~(4)~~ (5) 'Health care provider' means the same as that term is defined in section three of this article.

~~(5)~~ (6) 'Teaching hospital' means a hospital or medical center that provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.

~~(6)~~ (7) 'Qualified hospital' means a an academic medical center or teaching accredited academic hospital, which meets the requirements of 42 C. F. R. 411.355(e) and which has entered into a cooperative agreement with one or more hospitals or other health care providers but is not a critical access hospital for purposes of this section.

(b) *Findings.* —

(1) The Legislature finds that the state's schools of medicine, affiliated universities and teaching hospitals are critically important in the training of physicians and other healthcare providers who practice health care in this state. They provide access to healthcare and enhance quality healthcare for the citizens of this state.

(2) A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the art equipment and a full range of clinical services and that, in many instances, the accessibility to facilities, equipment and clinical services can be achieved more economically and efficiently through a cooperative agreement among a ~~teaching~~ qualified hospital and one or more hospitals or other health care providers.

(c) *Legislative purpose.* — The Legislature encourages cooperative agreements if the likely benefits of such agreements outweigh any disadvantages attributable to a reduction in competition. When a cooperative agreement, and the planning and negotiations of cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is in the state's best interest to supplant such laws with regulatory approval and oversight by the Health Care Authority as set out in this article. The authority has the power to review, approve or deny cooperative agreements, ascertain that they are beneficial to citizens of the state and to medical education, to ensure compliance with the provisions of the cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.

(d) *Cooperative Agreements.* —

(1) A qualified hospital ~~which is a member of an academic medical center~~ may negotiate and enter into a cooperative agreement with other hospitals or health care providers in the state:

(A) In order to enhance or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of medical education in this state and to achieve the goals hereinafter set forth; and

(B) When the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreement.

(2) The goal of any cooperative agreement would be to:

(A) Improve access to care;

(B) Advance health status;

(C) Target regional health issues;

(D) Promote technological advancement;

(E) Ensure accountability of the cost of care;

- (F) Enhance academic engagement in regional health;
- (G) Preserve and improve medical education opportunities;
- (H) Strengthen the workforce for health-related careers; and
- (I) Improve health entity collaboration and regional integration, where appropriate.

(3) A qualified hospital located in this state may submit an application for approval of a proposed cooperative agreement to the authority. The application shall state in detail the nature of the proposed arrangement including the goals and methods for achieving:

- (A) Population health improvement;
- (B) Improved access to health care services;
- (C) Improved quality;
- (D) Cost efficiencies;
- (E) Ensuring affordability of care;
- (F) Enhancing and preserving medical education programs; and
- (G) Supporting the authority's goals and strategic mission, as applicable.

~~(4) (A) If the cooperative agreement involves a combination of hospitals through merger or consolidation or acquisition, the qualified hospital must have been awarded a certificate of need for the project by the authority, as set forth in article two-d of this chapter prior to submitting an application for review of a cooperative agreement.~~

~~(B) (A) In addition to a certificate of need, the authority may also require that an application for review of a cooperative agreement as provided in this section shall be submitted and approved prior to the finalization of the cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital, and the authority shall have determined that combination is likely to produce anti-competitive effects due to a reduction of competition. Any such determination shall be communicated to the parties to the cooperative agreement within seven days from approval of a certificate of need for the project.~~

~~(C) (B) In reviewing an application for cooperative agreement, the authority shall give deference to the policy statements of the Federal Trade Commission.~~

~~(D) (C) If an application for a review of a cooperative agreement is not required by the authority, the parties to the agreement may then complete the transaction following a final order by the authority on the certificate of need as set forth in article two-d of this code. The qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.~~

~~(E) A party who has received a certificate of need prior to the enactment of this provision during the 2016 regular session of the Legislature may apply for approval of a cooperative agreement whether or not the transaction contemplated thereby has been completed.~~

~~(F) The complete record in the certificate of need proceeding shall be part of the record in the proceedings under this section and information submitted by an applicant in the certificate of need proceeding need not be duplicated in proceedings under this section.~~

(e) *Procedure for review of cooperative agreements.* —

(1) Upon receipt of an application, the authority shall determine whether the application is complete. If the authority determines the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application. A copy of the complete application shall be provided by the parties to the Office of the Attorney General simultaneous with the submission to the authority. If an applicant believes the materials submitted contain proprietary information that is required to remain confidential, such information must be clearly identified and the applicant shall submit duplicate applications, one with full information for the authority's use and one redacted application available for release to the public.

(2) The authority shall upon receipt of a completed application, publish notification of the application on its website as well as provide notice of such application placed in the State Register. The public may submit written comments regarding the application within ten days following publication. Following the close of the written comment period, the authority shall review the application as set forth in this section. Within thirty days of the receipt of a complete application the authority may:

(i) Issue a certificate of approval which shall contain any conditions the authority finds necessary for the approval;

(ii) Deny the application; or

(iii) Order a public hearing if the authority finds it necessary to make an informed decision on the application.

(3) The authority shall issue a written decision within seventy-five days from receipt of the completed application. The authority may request additional information in which case they shall have an additional fifteen days following receipt of the supplemental information to approve or deny the proposed cooperative agreement.

(4) Notice of any hearing shall be sent by certified mail to the applicants and all persons, groups or organizations who have submitted written comments on the proposed cooperative agreement ~~as well as to all persons, groups or organizations designated as affected parties in the certificate of need proceeding.~~ Any individual, group or organization who submitted written comments regarding the application and wishes to present evidence at the public hearing shall request to be recognized as an affected party as set forth in article two-d of this chapter. The hearing shall be held no later than forty-five days after receipt of the application. The authority shall publish notice of the hearing on the authority's website fifteen days prior to the hearing. The authority shall additionally provide timely notice of such hearing in the State Register.

(5) Parties may file a motion for an expedited decision.

(f) *Standards for review of cooperative agreements.* —

(1) In its review of an application for approval of a cooperative agreement submitted pursuant to this section, the authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicant, any written comments submitted by any person and any written or oral comments submitted, or evidence presented, at any public hearing.

(2) The authority shall consult with the Attorney General of this state regarding his or her assessment of whether or not to approve the proposed cooperative agreement.

(3) The authority shall approve a proposed cooperative agreement and issue a certificate of approval if it determines, with the written concurrence of the Attorney General, that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.

(4) In evaluating the potential benefits of a proposed cooperative agreement, the authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

(A) Enhancement and preservation of existing academic and clinical educational programs;

(B) Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;

(C) Enhancement of population health status consistent with the health goals established by the authority;

(D) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

(E) Gains in the cost-efficiency of services provided by the hospitals involved;

(F) Improvements in the utilization of hospital resources and equipment;

(G) Avoidance of duplication of hospital resources;

(H) Participation in the state Medicaid program; and

(I) Constraints on increases in the total cost of care.

(5) The authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

(A) The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(B) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

(C) The extent of any likely adverse impact on patients in the quality, availability and price of health care services; and

(D) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

(6) (A) After a complete review of the record, including, but not limited to, the factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any conditions imposed by the authority, if the authority determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement, the authority shall approve the proposed cooperative agreement.

(B) The authority may reasonably condition approval upon the parties' commitments to:

(i) Achieving improvements in population health;

(ii) Access to health care services;

(iii) Quality and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement; and

(iv) Any additional commitments made by the parties to the cooperative agreement.

Any conditions set by the authority shall be fully enforceable by the authority. No condition imposed by the authority, however, shall limit or interfere with the right of a hospital to adhere to religious or ethical directives established by its governing board.

(7) The authority's decision to approve or deny an application shall constitute a final order or decision pursuant to the West Virginia Administrative Procedure Act (§ 29A-1-1, *et seq.*). The authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(g) *Enforcement and supervision of cooperative agreements.* — The authority shall enforce and supervise any approved cooperative agreement for compliance.

(1) The authority is authorized to promulgate legislative rules in furtherance of this section. Additionally, the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall include, at a minimum:

(A) An annual report by the parties to a cooperative agreement. This report is required to include:

(i) Information about the extent of the benefits realized and compliance with other terms and conditions of the approval;

(ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

(iii) Information relating to price, cost, quality, access to care and population health improvement;

(iv) Disclosure of any reimbursement contract between a party to a cooperative agreement approved pursuant to this section and a commercial health plan or insurer entered into subsequent to the finalization of the cooperative agreement. This shall include the amount, if any, by which an increase in the average rate of reimbursement exceeds, with respect to inpatient services for such year, the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services as published by the Bureau of Labor Statistics for such year and, with respect to outpatient services,

the increase in the Consumer Price Index for all Urban Consumers for hospital outpatient services for such year; and

(v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

(B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and Medicaid Services. The representative sample shall be published by the authority on its website.

(C) A procedure for a corrective action plan where the average performance score of the parties to the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this subsection. The corrective action plan is required to:

(i) Be submitted one hundred twenty days from the commencement of the next calendar year; and

(ii) Provide for a rebate to each commercial health plan or insurer with which they have contracted an amount not in excess of one percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive-year period the average performance score is below the fiftieth percentile for all United States hospitals. The amount to be rebated shall be reduced by the amount of any reduction in reimbursement which may be imposed by a commercial health plan or insurer under a quality incentive or awards program in which the hospital is a participant.

(D) A procedure where if the excess above the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services or hospital outpatient services is two percent or greater the authority may order the rebate of the amount which exceeds the respective indices by two percent or more to all health plans or insurers which paid such excess unless the party provides written justification of such increase satisfactory to the authority taking into account case mix index, outliers and extraordinarily high cost outpatient procedure utilizations.

(E) The ability of the authority to investigate, as needed, to ensure compliance with the cooperative agreement.

(F) The ability of the authority to take appropriate action, including revocation of a certificate of approval, if it determines that:

(i) The parties to the agreement are not complying with the terms of the agreement or the terms and conditions of approval;

(ii) The authority's approval was obtained as a result of an intentional material misrepresentation;

(iii) The parties to the agreement have failed to pay any required fee; or

(iv) The benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement.

(G) If the authority determines the parties to an approved cooperative agreement have engaged in conduct that is contrary to state policy or the public interest, including the failure to take action required by state policy or the public interest, the authority may initiate a proceeding to determine

whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages. Any determination by the authority shall be final. The authority is specifically authorized to enforce its determination in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(H) Fees as set forth in subsection (h).

(2) Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.

(h) *Fees.* — The authority may set fees for the approval of a cooperative agreement. These fees shall be for all reasonable and actual costs incurred by the authority in its review and approval of any cooperative agreement pursuant to this section. These fees shall not exceed \$75,000. Additionally, the authority may assess an annual fee not to exceed \$75,000 for the supervision of any cooperative agreement approved pursuant to this section and to support the implementation and administration of the provisions of this section.

(i) *Miscellaneous provisions.* —

(1) (A) An agreement entered into by a hospital party to a cooperative agreement and any state official or state agency imposing certain restrictions on rate increases shall be enforceable in accordance with its terms and may be considered by the authority in determining whether to approve or deny the application. Nothing in this chapter shall undermine the validity of any such agreement between a hospital party and the Attorney General entered before the effective date of this legislation.

(B) At least ninety days prior to the implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a third party payor, a hospital party to a cooperative agreement involving the combination of two or more hospitals through merger, consolidation or acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to the Office of the West Virginia Attorney General together with such information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request. Should the Attorney General determine that the proposed rates may inappropriately exceed competitive rates for comparable services in the hospital's market area which would result in unwarranted consumer harm or impair consumer access to health care, the Attorney General may request the authority to evaluate the proposed rate increase and to provide its recommendations to the Office of the Attorney General. The Attorney General may approve, reject or modify the proposed rate increase and shall communicate his or her decision to the hospital no later than 30 days prior to the proposed implementation date. The hospital may then only implement the increase approved by the Attorney General. Should the Attorney General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the Attorney General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.

(2) The authority shall maintain on file all cooperative agreements the authority has approved, including any conditions imposed by the authority.

(3) Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the authority thirty days after termination.

(4) No hospital which is a party to a cooperative agreement for which approval is required pursuant to this section may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority. Additionally, no hospital which is a party to a cooperative agreement may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement for which approval has been revoked or terminated.

(5) By submitting an application for review of a cooperative agreement pursuant to this section, the hospitals or health care providers shall be deemed to have agreed to submit to the regulation and supervision of the authority as provided in this section.

§16-29B-30. Applicability; transition plan.

(a) Notwithstanding any provision of this code to the contrary, effective July 1, 2017, the Health Care Authority shall transfer to the Department of Health and Human and Resources. Any and all remaining functions of the Health Care Authority shall transfer at that time to the Department of Health and Human Resources.

(b) The Health Care Authority shall develop and implement a transition plan to transfer all their remaining functions to the Department of Health and Human Resources. The plan shall be submitted in writing to the Joint Committee on Government and Finance, the Governor and the Secretary of the Department of Health and Human Resources, the Secretary of the Department of Administration and the Division of Personnel. This plan shall be submitted no later than June 1, 2017. The plan shall include proposals for the following:

(1) Transition to appropriate entities or destruction of hard and electronic copies of files;

(2) Transfer of all certificate of need matters pending as of July 1, 2017, to the Department of Health and Human Resources.

(3) In consultation with the Department of Administration, discontinuation of use of the current building including termination of any lease or rental agreements, if necessary;

(4) In consultation with the Department of Administration, disposition of all state owned or leased office furniture and equipment, including any state owned vehicles, if necessary;

(5) Closing out and transferring existing budget allocations;

(6) A transition plan developed in conjunction with the Division of Personnel for remaining employees not transferred to other offices within state government;

(7) A plan to repeal all existing legislative rules made unnecessary by the transfer of the Health Care Authority; and

(8) Any other matters which would effectively terminate all functions not transferred to the Department of Health and Human Resources.

(9) Upon the effective date of the changes to this article made during the course of the 2017 Regular Session of the Legislature, any function of the Health Care Authority not otherwise eliminated or transferred shall become a function of the Department of Health and Human Resources.

ARTICLE 29G. WEST VIRGINIA HEALTH INFORMATION NETWORK.

§16-29G-1a. Transfer of West Virginia Health Information Network.

(a) As used in this article, the following mean:

(1) 'Agreement' means a document that may be entered into between the network board and the corporation;

(2) 'Assets' means the tangible and intangible personal property of the network on the transfer date, including all assignable grants, all obligated funds on deposit in the network account, agreements and contracts;

(3) 'Corporation' means any nonstock, nonprofit corporation to be established under the chapter thirty-one;

(4) 'Network' means the West Virginia Health Information Network; and

(5) 'Network account' means the West Virginia Health Information Network Account.

(b) By December 31, 2017, the network board of directors shall transfer the existing network, the associated assets and liabilities to a private nonprofit corporation organized under chapter thirty-one e of this code.

(c) The network board of directors may enter into agreements as they determine are appropriate to implement the transfer. The agreements are exempt from the bidding and public sale requirements, from the approval of contractual agreements by the Department of Administration or the Attorney General and from the requirements of chapter five-a of this code.

(d) The initial corporation board of directors may consist of any current members of the network board of directors. The current appointed network directors shall continue to serve until the transfer is complete. Notwithstanding any other provisions of this code to the contrary, officers and employees of the network may be transferred considered for employment with to the corporation, and any such employment shall be deemed exempt from the requirements and limitations imposed by section five, article two, chapter six-B and any legislative rules promulgated thereunder.

(e) The corporation shall have all powers afforded to a nonprofit corporation by law and is limited to those powers enumerated in this article.

(f) The corporation shall not be a department, unit, agency or instrumentality of the state.

(g) The corporation is not subject to the provisions of article nine-a, chapter six of this code, Open Government Proceeding; the provisions of article two, chapter six-c of this code, the West Virginia Public Employees Grievance Procedure; the provisions of article six, chapter twenty-nine of this code, Civil Service System; or the provisions of chapter twenty-nine-b of this code, Freedom of Information; article twelve, chapter twenty-nine of this code, State Insurance; article ten, chapter five, of this code, West Virginia Public Employees Retirement Act, or the provisions of article sixteen, chapter five, of this code, West Virginia Public Employees Insurance Act.

(h) The Secretary of the Department of Health and Human Resources may designate the corporation as the state's health information exchange, and shall have the authority to make sole source grants or enter into sole source contracts with the corporation pursuant to section ten-c, article three, chapter five-A of this code.

(i) The Secretary of the Department of Health and Human Resources shall have access to the data free of charge subject to the provisions of applicable state and federal law.

§16-29G-4. Creation of the West Virginia Health Information Network account; authorization of Health Care Authority to expend funds to support the network.

(a) All moneys collected shall be deposited in a special revenue account in the state Treasury known as the West Virginia Health Information Network Account. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2007, expenditures are authorized from collections rather than pursuant to appropriations by the Legislature.

(b) Consistent with section eight, article twenty-nine-b of this chapter, the Health Care Authority's provision of administrative, personnel, technical and other forms of support to the network is necessary to support the activities of the Health Care Authority board and constitutes a legitimate, lawful purpose of the Health Care Authority board. Therefore, the Health Care Authority is hereby authorized to expend funds from its Health Care Cost Review Fund, established under section eight, article twenty-nine-b of this chapter, to support the network's administrative, personnel and technical needs and any other network activities the Health Care Authority deems necessary.

(c) Notwithstanding section ten, article three, chapter twelve of this code, on the transfer date, the encumbered amounts on deposit in the West Virginia Health Information Network Account shall be paid over to the corporation, the account shall be closed and subsection (a) of this section shall be of no further effect.'

CHAPTER 21. LABOR.

ARTICLE 5. NURSE OVERTIME AND PATIENT SAFETY ACT.

§21-5F-4. Enforcement; offenses and penalties.

(a) Pursuant to the powers set forth in article one of this chapter, the Commissioner of Labor is charged with the enforcement of this article. The commissioner shall propose legislative and procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish procedures for enforcement of this article. These rules shall include, but are not limited to, provisions to protect due process requirements, a hearings procedure, an appeals procedure, and a notification procedure, including any signs that must be posted by the facility.

(b) Any complaint must be filed with the commissioner regarding an alleged violation of the provisions of this article must be made within thirty days following the occurrence of the incident giving rise to the alleged violation. The commissioner shall keep each complaint anonymous until the commissioner finds that the complaint has merit. The commissioner shall establish a process for notifying a hospital of a complaint.

(c) The administrative penalty for the first violation of this article is a reprimand.

(d) The administrative penalty for the second offense of this article is a reprimand and a fine not to exceed \$500.

(e) The administrative penalty for the third and subsequent offenses is a fine of not less than \$2,500 and not more than \$5,000 for each violation.

(f) To be eligible to be charged of a second offense or third offense under this section, the subsequent offense must occur within twelve months of the prior offense.

(g) ~~(4)~~ All moneys paid as administrative penalties pursuant to this section shall be deposited into the ~~Health Care Cost Review Fund provided by section eight, article twenty-nine-b, chapter sixteen of this code~~ General Revenue Fund.

~~(2) In addition to other purposes for which funds may be expended from the Health Care Cost Review Fund, the West Virginia Health Care Authority shall expend moneys from the fund, in amounts up to but not exceeding amounts received pursuant to subdivision (1) of this subsection, for the following activities in this state:~~

- ~~(A) Establishment of scholarships in medical schools;~~
- ~~(B) Establishment of scholarships for nurses training;~~
- ~~(C) Establishment of scholarships in the public health field;~~
- ~~(D) Grants to finance research in the field of drug addiction and development of cures therefor;~~
- ~~(E) Grants to public institutions devoted to the care and treatment of narcotic addicts; and~~
- ~~(F) Grants for public health research, education and care.~~

CHAPTER 33. INSURANCE.

ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-4A-1. Definitions.

(a) 'All-payer claims database' or 'APCD' means the program authorized by this article that collects, retains, uses and discloses information concerning the claims and administrative expenses of health care payers.

~~(b) 'Chair' means the chairperson of the West Virginia Health Care Authority.~~

~~(c)~~ (b) 'Commissioner' means the West Virginia Insurance Commissioner.

~~(d)~~ (c) 'Data' means the data elements from enrollment and eligibility files, specified types of claims, and reference files for data elements not maintained in formats consistent with national coding standards.

(d) 'Executive Director' means the executive director of the West Virginia Health Care Authority.

(e) 'Health care payer' means any entity that pays or administers the payment of health insurance claims or medical claims under workers' compensation insurance to providers in this state, including workers' compensation insurers; accident and sickness insurers; nonprofit hospital service corporations, medical service corporations and dental service organizations; nonprofit health service corporations; prepaid limited health service organizations; health maintenance organizations; and government payers, including but not limited to Medicaid, Medicare and the public employees insurance agency; the term also includes any third-party administrator including any pharmacy benefit manager, that administers a fully-funded or self-funded plan:

A 'health insurance claim' does not include:

(1) Any claim paid under an individual or group policy providing coverage only for accident, or disability income insurance or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability; credit-only insurance; coverage for on-site medical clinics; other similar insurance coverage, which may be specified by rule, under which benefits for medical care are secondary or incidental to other insurance benefits; or

(2) Any of the following if provided under a separate policy, certificate, or contract of insurance: Limited scope dental or vision benefits; benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; coverage for only a specified disease or illness; or hospital indemnity or other fixed indemnity insurance.

'Health insurance claims' shall only include information from Medicare supplemental policies if the same information is obtained with respect to Medicare.

(f) 'Personal identifiers' means information relating to an individual member or insured that identifies, or can be used to identify, locate or contact a particular individual member or insured, including but not limited to the individual's name, street address, social security number, e-mail address and telephone number.

(g) 'Secretary' means the Secretary of the West Virginia Department of Health and Human Services.

(h) 'Third-party administrator' has the same meaning ascribed to it in section two, article forty-six of this chapter.

§33-4A-2. Establishment and development of an all-payer claims database.

(a) The secretary, commissioner and ~~chair~~ the executive director, collectively referred to herein as the 'MOU parties', shall enter into a memorandum of understanding to develop an all-payer claims database program.

(b) The memorandum of understanding shall, at a minimum:

(1) Provide that the commissioner will have primary responsibility for the collection of the data in order to facilitate the efficient administration of state oversight, the secretary will have primary responsibility for the retention of data supplied to the state under its health care oversight function, and the ~~chair~~ executive director will have primary responsibility for the dissemination of the data;

(2) Delineate the MOU parties' roles, describe the process to develop legislative rules required by this article, establish communication processes and a coordination plan, and address vendor relationship management;

(3) Provide for the development of a plan for the financial stability of the APCD, including provision for funding by the MOU parties' agencies; and

(4) Provide for the use of the hospital discharge data collected by the West Virginia Health Care Authority as a tool in the validation of APCD reports.

§33-4A-3. Powers of the commissioner, secretary and ~~chair~~ executive director; exemption from purchasing rules.

(a) The MOU parties may:

(1) Accept gifts, bequests, grants or other funds dedicated to the furtherance of the goals of the APCD;

(2) Select a vendor to handle data collection and processing and such other tasks as deemed appropriate;

(3) Enter into agreements with other states to perform joint administrative operations, share information and assist in the development of multistate efforts to further the goals of this article: *Provided*, That any such agreements must include adequate protections with respect to the confidentiality of the information to be shared and comply with all state and federal laws and regulations;

(4) Enter into memoranda of understanding with other governmental agencies to carry out any of its functions, including contracts with other states to perform joint administrative functions;

(5) Attempt to ensure that the requirements with respect to the reporting of data be standardized so as to minimize the expense to parties subject to similar requirements in other jurisdictions;

(6) Enter into voluntary agreements to obtain data from payers not subject to mandatory reporting under this article; and

(7) Exempt a payer or class of payers from the requirements of this article for cause.

(b) Contracts for professional services for the development and operation of the APCD are not subject to the provisions of article three, chapter five-a of this code relating to the Purchasing Division of the Department of Administration. The award of such contracts shall be subject to a competitive process established by the MOU parties.

(c) The MOU parties shall make an annual report to the Governor, which shall also be filed with the Joint Committee on Government and Finance, summarizing the activities of the APCD in the preceding calendar year.

§33-4A-5. User fees; waiver.

Reasonable user fees may be set in the manner established in legislative rule, for the right to access and use the data available from the APCD. The ~~chair~~ executive director may reduce or waive the fee if he or she determines that the user is unable to pay the scheduled fees and that the user has a viable plan to use the data or information in research of general value to the public health.

§33-4A-6. Enforcement; injunctive relief.

In the event of any violation of this article or any rule adopted thereunder, the commissioner, secretary or ~~chair~~ executive director may seek to enjoin a further violation in the circuit court of Kanawha County. Injunctive relief ordered pursuant to this section may be in addition to any other remedies and enforcement actions available to the commissioner under this chapter.

§33-4A-7. Special revenue account created.

(a) There is hereby created a special revenue account in the State Treasury, designated the West Virginia All-Payer Claims Database Fund, which shall be an interest-bearing account and may be invested in the manner permitted by article six, chapter twelve of this code, with the interest income a proper credit to the fund and which shall not revert to the general revenue, unless otherwise designated in law. The fund shall be overseen by the commissioner, secretary and ~~chair~~ executive

director, shall be administered by the commissioner, and shall be used to pay all proper costs incurred in implementing the provisions of this article.

(b) The following funds shall be paid into this account:

(1) Penalties imposed on health care payers pursuant to this article and rules promulgated hereunder;

(2) Funds received from the federal government;

(3) Appropriations from the Legislature; and

(4) All other payments, gifts, grants, bequests or income from any source.

ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-16D-16. Authorization of uninsured small group health benefit plans.

(a) Upon filing with and approval by the commissioner, any carrier licensed pursuant to this chapter which accesses a health care provider network to deliver services may offer a health benefit plan and rates associated with the plan to a small employer subject to the conditions of this section and subject to the provisions of this article. The health benefit plan is subject to the following conditions:

(1) The health benefit plan may be offered by the carrier only to small employers which have not had a health benefit plan covering their employees for at least six consecutive months before the effective date of this section. After the passage of six months from the effective date of this section, the health benefit plan under this section may be offered by carriers only to small employers which have not had a health benefit plan covering their employees for twelve consecutive months;

(2) If a small employer covered by a health benefit plan offered pursuant to this section no longer meets the definition of a small employer as a result of an increase in eligible employees, that employer shall remain covered by the health benefit plan until the next annual renewal date;

(3) The small employer shall pay at least fifty percent of its employees' premium amount for individual employee coverage;

(4) The commissioner shall promulgate emergency rules under the provisions of article three, chapter twenty-nine-a of this code on or before September 1, 2004, to place additional restrictions upon the eligibility requirements for health benefit plans authorized by this section in order to prevent manipulation of eligibility criteria by small employers and otherwise implement the provisions of this section;

(5) Carriers must offer the health benefit plans issued pursuant to this section through one of their existing networks of health care providers;

(A) The ~~West Virginia Health Care Authority~~ Insurance Commission shall, on or before May 1, 2004, and each year thereafter, by regular mail, provide a written notice to all known in-state health care providers that:

(i) Informs the health care provider regarding the provisions of this section; and

(ii) Notifies the health care provider that if the health care provider does not give written refusal to the ~~West Virginia Health Care Authority~~ Insurance Commission within thirty days from receipt of the notice or the health care provider has not previously filed a written notice of refusal to participate, the health care provider must participate with and accept the products and provider reimbursements authorized pursuant to this section;

(B) The carrier's network of health care providers, as well as any health care provider which provides health care goods or services to beneficiaries of any departments or divisions of the state, as identified in article twenty-nine-d, chapter sixteen of this code, shall accept the health care provider reimbursement rates set pursuant to this section unless the health care provider gives written refusal to the ~~West Virginia Health Care Authority~~ Insurance Commission between May 1 and June 1 that the provider will not participate in this program for the next calendar year. Notwithstanding any provision of this code to the contrary, health care providers may not be mandated to participate in this program except under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health care provider shall annually have the ability to file with the ~~West Virginia Health Care Authority~~ Insurance Commission written notice that the health care provider will not participate with products issued pursuant to this section. Once a health care provider has filed a notice of refusal with the ~~West Virginia Health Care Authority~~ Insurance Commission, the notice shall remain effective until rescinded by the provider and the provider shall not be required to renew the notice each year;

(C) ~~The West Virginia Health Care Authority~~ Insurance Commission is responsible for receiving the responses, if any, from the health care providers that have elected not to participate and for providing a list to the commissioner of those health care providers that have elected not to participate;

(D) Those health care providers that do not file a notice of refusal shall be considered to have accepted participation in this program and to accept Public Employees Insurance Agency health care provider reimbursement rates for their services as set by this section;

(E) Health care provider reimbursement rates used by the carrier for a health benefit plan offered pursuant to this section shall have no effect on provider rates for other products offered by the carrier and most-favored-nation clauses do not apply to the rates;

(6) With respect to the health benefit plans authorized by this section, the carrier shall reimburse network health care providers at the same health care provider reimbursement rates in effect for the managed care and health maintenance organization plans offered by the West Virginia Public Employees Insurance Agency. Beginning in the year 2004, and in each year thereafter, the health care provider reimbursement rates set under this section may not be lowered from the level of the rates in effect on July 1 of that year for the managed care and health maintenance plans offered by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern rates for plans offered pursuant to this section for annual periods, this subdivision in no way prevents the Public Employees Insurance Agency from making provider reimbursement rate adjustments to Public Employees Insurance Agency plans during the course of each year. If there is a dispute regarding the determination of appropriate rates pursuant to this section, the Director of the Public Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be applied;

(A) The health care provider reimbursement rates as authorized by this section shall be accepted by the health care provider as payment in full for services or products provided to a person covered by a product authorized by this section;

(B) Except for the health care provider rates authorized under this section, a carrier's payment methodology, including copayments and deductibles and other conditions of coverage, remains unaffected by this section;

(C) The provisions of this section do not require the Public Employees Insurance Agency to give carriers access to the purchasing networks of the Public Employees Insurance Agency. The Public Employees Insurance Agency may enter into agreements with carriers offering health benefit plans under this section to permit the carrier, at its election, to participate in drug purchasing arrangements pursuant to article sixteen-c, chapter five of this code, including the multistate drug purchasing program. This paragraph provides authorization of the agreements pursuant to section four of said article;

(7) Carriers may not underwrite products authorized by this section more strictly than other small group policies governed by this article;

(8) With respect to health benefit plans authorized by this section, a carrier shall have a minimum anticipated loss ratio of seventy-seven percent to be eligible to make a rate increase request after the first year of providing a health benefit plan under this section;

(9) Products authorized under this section are exempt from the premium taxes assessed under sections fourteen and fourteen-a, article three of this chapter;

(10) A carrier may elect to nonrenew any health benefit plan to an eligible employer if, at any time, the carrier determines, by applying the same network criteria which it applies to other small employer health benefit plans, that it no longer has an adequate network of health care providers accessible for that eligible small employer. If the carrier makes a determination that an adequate network does not exist, the carrier has no obligation to obtain additional health care providers to establish an adequate network;

(11) Upon thirty days' advance notice to the commissioner, a carrier may, at any time, elect to nonrenew all health benefit plans issued pursuant to this section. If a carrier nonrenews all its business issued pursuant to this section for any reason other than the adequacy of the provider network, the carrier may not offer this health benefit plan to any eligible small employer for a period of at least two years after the last eligible small employer is nonrenewed; and

(12) The Insurance Commissioner may not approve any health benefit plan issued pursuant to this section until it has obtained any necessary federal governmental authorizations or waivers. The Insurance Commissioner shall apply for and obtain all necessary federal authorizations or waivers.

(b) Health benefit plans authorized by this section are not intended to violate the prohibition set out in subsection (a), section four of this article.

(c) Carriers offering health benefit plans pursuant to this section shall annually or before December 1 of each year report in a form acceptable to the commissioner the number of health benefit plans written by the carrier and the number of individuals covered under the health benefit plans.

(d) To the extent that provisions of this section differ from those contained elsewhere in this chapter, the provisions of this section control."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2459 – "A Bill to repeal §16-2D-5f of the Code of West Virginia, 1931, as amended; to repeal §16-5F-1; §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5, §16-5F-6 and §16-5F-7; to repeal §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-

29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27, and §16-29B-29; to repeal §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10; to amend and reenact §5F-1-3a of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 and §9-4C-8 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code; to amend and reenact §16-5B-17 of said code; to amend and reenact §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28; to amend said code by adding thereto a new section, designated §16-29B-5a; to amend said code by adding thereto a new section, designated §16-29B-30; to amend said code by adding thereto a new section, designated §16-29G-1a; to amend and reenact §16-29G-4 of said code; to amend and reenact §21-5F-4 of said code; to amend and reenact §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6, and §33-4A-7 of said code; and to amend and reenact §33-16D-16 of said code, all relating to regulation of health care; repealing redundant code section relative to neonatal abstinence facilities; repealing health care facility financial disclosure; repealing uniform system of financial reporting; repealing information gathering and coordination advisory group; updating the certificate of need process; placing certificate of need under Secretary of Department of Health and Human Resources; defining terms; adding exemptions to certificate of need; clarifying exemptions; modifying computed technology exemption from certificate of need; clarifying skilled nursing facility exemption for counties with no skilled nursing facility; allowing skilled nursing facility bed transfers; requiring skilled nursing facility beds retain identical certification status; clarifying appeals process; removing autonomy of Health Care Authority; placing Health Care Authority under direct supervision of Secretary of the Department of Health and Human Resources; repealing unnecessary code sections made unnecessary with transfer to Department of Health and Human Resources; eliminating powers related to insurance policies and health organizations; modifying health care provider tax relative to rate review; eliminating public disclosure; eliminating granting authority; eliminating unnecessary penalties; eliminating unnecessary severability section; eliminating three full time board members; replacing existing board with a five member board; appointment of board members; setting out qualifications of board members; setting out terms of offices, filling of vacancies and oath for board members; providing for payment of board member expenses; providing for appointment of a chairman; setting out meeting requirements; creating the position of Executive Director; setting out power and duties of the Executive Director; setting compensation for the Executive Director; eliminating certain powers of the Health Care Authority; eliminating hospital and health care facility assessments; updating authority power relative to cooperative agreements; providing for transfer of necessary duties of Health Care Authority to Department of Health and Human Resources; requiring a transition plan; setting forth necessary elements of transition plan; allowing transfer of West Virginia Health Information Network to private entity; granting access to West Virginia Health Information Network to Secretary of Department of Health and Human Resources; providing for transfer of encumbered amounts of West Virginia Health Information Network to private entity upon transfer date; providing for administrative penalties for nurses overtime be paid into the general revenue fund; eliminating discretionary spending of Health Care Authority for amounts from penalties for violation of the nurse overtime act; substituting executive director of Health Care Authority or Secretary of Department of Health and Human Resources for chair of Health Care Authority in various code sections; transferring authority of Health Care Authority regarding uninsured small group health benefit plans to the Insurance Commission; eliminating archaic revolving loan and grant fund; making conforming amendments; and setting effective date dates.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 271**), and there were—yeas 87, nays 6, absent and not voting 7, with the yeas and absent and not voting being as follows:

Nays: Bates, Fleischauer, Moye, Pyles, Rowe and Sponaule.

Absent and Not Voting: Byrd, Deem, Hamrick, Hicks, Rodighiero, Rohrbach and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 272**), and there were—yeas 85, nays 7, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Fleischauer, Love, Pyles, Rowe and Sponaule.

Absent and Not Voting: Byrd, Deem, Hamrick, Hicks, Rodighiero, Rohrbach, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

H. C. R. 83, U.S. Army SPC John R. Tennant Memorial Bridge,

H. C. R. 109, Extending the Committee of Conference relating to consideration of Com Sub for H. B. 2099,

And,

H. C. R. 110, Extending the Committee of Conference relating to consideration of Com Sub for H. B. 2028.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 386 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15, §16-8A-16, and §16-8A-17, all relating to creating the West Virginia Medical Cannabis Act; defining terms; creating the West Virginia Medical Cannabis Commission; setting forth members of the West Virginia Medical Cannabis Commission; setting forth responsibilities for the West Virginia Medical Cannabis Commission; creating a special revenue account known as the West Virginia Medical Cannabis Commission Fund; requiring a portion of any profit to be spent for specific programs; detailing the fund's revenue sources and disbursements; detailing requirements of the commission to implement the provisions of the act; setting requirements for becoming a certifying physician; authorizing the commission to approve physician applications for certain medical conditions; requiring reporting to the Controlled Substances monitoring database; setting out conditions for which cannabis may be used; requiring certain annual reports to the Governor and

Legislature; authorizing the commission to license medical cannabis growers and grower agents that meet certain requirements; setting forth certain parameters for licensed growers and grower agents; requiring a certain percentage of licenses be granted to persons in veterans agriculture programs; providing an exception for a qualifying patient to grow a specified amount without a license; authorizing the commission to license dispensaries and register dispensary agents; setting forth certain requirements for dispensaries and dispensary agents setting an initial limit on number of medical cannabis growers and dispensaries; authorizing commission to license the number of growers and dispensaries sufficient to meet demand as of July 1, 2020; authorizing the commission to license medical cannabis processors and register processor agents; authorizing testing laboratories; stating requirements for the commission's registration of independent laboratories; requiring the State Police and commission to enter a memorandum of understanding for criminal records checks and setting forth basic requirements; providing that certain persons licensed, registered and authorized under the act may not be subject to arrest, prosecution or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of cannabis; creating a new criminal offense of distributing, possessing, manufacturing or using cannabis that has been diverted from an authorized medicinal use; specifically stating conduct related to cannabis that is not protected by the provisions of the act; authorizing state employees to recover certain counsel fees; empowering the Governor to suspend implementation of the act if the Governor determines certain federal action may occur; authorizing promulgation of emergency rules and the proposal of legislative rules for approval by the Legislature; and establishing effective dates."

Delegate Folk asked unanimous consent that reference of the bill (Com. Sub. for S. B. 386) to a committee be dispensed with and the bill be taken up for immediate consideration and read a first time, which consent was not given, objection being heard.

Delegate Folk then moved that reference of the bill to a committee be dispensed with and the bill be taken up for immediate consideration and read a first time.

Delegate Lane was addressing the House when Delegate Cowles arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Pushkin was addressing the House when Delegate Cowles arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct his remarks to the motion before the House.

Delegate Fleischauer was addressing the House when Delegate Cowles arose to points of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Frich was addressing the House when Delegate Marcum arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks by the Delegate were relevant to the motion.

Delegate Frich was addressing the House when Delegate Folk arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Shott was addressing the House when Delegate Marcum arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks by the Delegate were relevant to the motion.

On this motion, Delegate Folk demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 273**), and there were—yeas 54, nays 40, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Ambler, Anderson, Arvon, Atkinson, Butler, Capito, Cooper, Cowles, Criss, Ellington, Espinosa, A. Evans, Fast, G. Foster, N. Foster, Frich, Gearheart, Hanshaw, Harshbarger, Hollen, Householder, Howell, Kelly, Kessinger, Martin, C. Miller, Nelson, O'Neal, Overington, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Walters and Ward.

Absent and Not Voting: Deem, Hamrick, Hicks, Rodighiero, Rohrbach and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed and reference of the bill (Com. Sub. for S. B. 386) to a committee was dispensed with.

The bill was read a first time and ordered to second reading.

A message from the Senate, by

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

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 606 - "A Bill to amend and reenact §21-5C-1 of the Code of West Virginia, 1931, as amended, relating to minimum wage and maximum hour standards for employees; and adding exceptions to the definition of the term "employee" for any person employed as a seasonal employee of an enterprise principally devoted to amusement rides and amusement attractions, any person employed by a traveling enterprise principally devoted to amusement rides or amusement attractions or a traveling carnival, including food concessions, or any person employed by a minor or major league baseball organization; limiting months of operation and receipts; and providing that the exemptions are for a limited purpose"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 609 - "A Bill to amend and reenact §11-8-6f and §11-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, §18-9A-10 and §18-9A-11 of said code; and to amend said code by adding thereto a new section, designated §18-9A-25, all relating to public school support; removing limit on increase in total property tax revenues if the current regular levy rates of the county boards of education were to be imposed; requiring each county board of education to establish its regular levy rates each year up to the statutory maximum levy rates; allowing a county board to change its proposed regular levy rates from the original proposed levy rates in its required statement to the Auditor; deleting required periodic legislative review of definition of "net enrollment"; changing term "levies for general current expense purposes" to "maximum levies for general current expense purposes" and modifying the definition to mean ninety percent of the maximum levy rates for county boards of education; determining allowance for fundable professional educators at set ratio, rather than the number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; deleting expired provisions; basing minimum professional instructional personnel required on percent of fundable professional educators or the number employed, whichever is less; providing for prorating professional instructional personnel among participating counties in joint school or program or service; removing penalty for not meeting applicable professional instructional personnel ratio for 2017-2018 school year; deleting expired provisions; deleting required periodic legislative review of density category ratios; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of Teachers Retirement Fund allowance; basing Teachers Retirement Fund allowance on average retirement contribution rate of each county and defining "average rate"; allowing limited portion of funds for bus purchases to be used for facility and equipment repair maintenance and improvement or replacement or other current expense priorities if requested and approved by state superintendent following verification; changing calculation of allowance for current expense from percent allowances for professional and service personnel to county's state average costs per square footage per student for operations and maintenance; basing the allowance to improve instructional programs and instructional technology on the portion of the increase in local share amount for the next school year that is due to an increase in assessed values only; removing authorization for use of instructional improvement funds for implementation and maintenance of the uniform integrated regional computer information system; removing requirement for fully utilizing applicable provisions of allowances for professional and service personnel before using instructional improvement funds for employment;

removing restriction limiting use of new instructional improvement funds for employment except for technology system specialists until certain determination made by state superintendent; authorizing use of instructional technology improvement funds for employment of technology system specialists and requiring amount used to be included and justified in strategic technology plan; specifying when certain debt service payments are to be made into School Building Capital Improvement Fund; authorizing use of percentages of allocations for improving instructional programs and improving instructional technology for facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes; requiring amounts used to be included and justified in respective strategic plans; and basing the computation of local share on the maximum levies for general current expense purposes"; which was referred to the Committee on which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 636 - "A Bill to amend and reenact §29-3-5d of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to establish and administrate a pilot project program to address problems facing volunteer fire departments; and requiring annual reports"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 637 - "A Bill to amend and reenact §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating generally to private club operations requirements; defining terms; permitting certain private club licensees that operate tourist destination and resort facilities to obtain one private resort hotel license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer in designated and approved areas throughout the licensed premises but within the confines of the property; permitting certain private club licensees that operate golf or country clubs to obtain one private golf club license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer on the premises of the facility; establishing license requirement; permitting patrons seventeen years of age to enter the licensed premises unaccompanied by a parent or legal guardian at private resort hotels and private golf clubs under limited circumstances, subject to certain conditions, and certain private clubs with designated nonalcohol areas; and establishing license fees"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 656 - "A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to allowing certain comprehensive statewide student assessment program vendors to only receive consideration for certain information if they obtain affirmative written consent solely for providing the student access to employment, educational scholarships or financial aid, and post-secondary educational opportunities; and providing that if a student forms a direct relationship with a certain vendor, the data sharing and consent requirements of the Student Data Accessibility, Transparency and Accountability Act do not apply to that relationship"; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 664 - "A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to removing the limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 667 - "A Bill to amend and reenact §11-10-5s of the Code of West Virginia, 1931, as amended, relating to the authority of the Attorney General to disclose certain information provided by the Tax Commissioner unless it is subject to a protective order or agreement restricting the use of the disclosed information to the proceeding, arbitration or litigation"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 687 - "A Bill to amend and reenact §22-3-11, §22-3-13a and §22-3-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-6-24 of said code; to amend and reenact §22-11-7b of said code; to amend and reenact §22A-1-2 and §22A-1-5 of said code; to amend and reenact §22A-2-59 of said code; to amend said code by adding thereto a new section, designated §22A-2A-1001; to amend and reenact §22A-6-3, §22A-6-4 and §22A-6-6 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-5, §22A-7-5a and §22A-7-7 of said code; to amend and reenact §22A-9-1 of said code; to amend and reenact §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4 of said code; to amend said code by adding thereto a new section, designated §22A-11-5, all relating generally to coal mining, coal mining safety and environmental protection; providing that moneys be paid from special reclamation water trust fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites; modifying notification requirements for preblast surveys for surface mining operations and certain other blasting activities; removing minimum bond requirements related to certain reclamation work; providing for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well; removing certain criteria from evaluation for the narrative water quality standard; authorizing the elimination of the Board of Miner Training, Education and Certification, the Mine Inspectors' Examining Board, and the Mine Safety Technology Task Force, and the transfer of duties from those boards and task force to the Board of Coal Mine Health and Safety; providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine; directing that the Office of Miners' Health, Safety and Training revise state rules related to diesel equipment operating in underground mines; and requiring rulemaking"; which was referred to the Committee on Energy.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 688 - “A Bill to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended, relating to correcting a technical error within the Solid Waste Management Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 689 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating to payment of small claims by the Division of Highways; setting forth findings and a declaration of public purpose; recognizing the need for an efficient process to pay certain claims against the Division of Highways; retaining the state’s sovereign immunity; requiring the division to develop a system to investigate and pay certain small claims; establishing minimum requirements for the system to evaluate and pay the claims; specifying information to be submitted by a claimant; limiting types of claims and amount of claims authorized under the system; requiring Division of Highways review each claim and return incomplete claims for correction; allowing claimant thirty calendar days to make corrections and return claim to division; requiring division to submit a report of all claims to the Legislative Auditor for approval; providing Legislative Auditor fifteen calendar days to approve or disapprove claim; authorizing Legislative Auditor to request additional information on a claim; providing Legislative Auditor ten calendar days to act on claim after receiving requested information; providing that a claimant whose claim has not been approved is not barred from filing a claim with the West Virginia Claims Commission; authorizing the promulgation of rules; requiring division process claims upon receipt of Legislative Auditor’s approval; and requiring State Auditor issue warrant for payment”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 690 - “A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the West Virginia State Police to impose and collect a fee for agencies and entities using the facilities under his or her direction for training purposes”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 691 - “A Bill to amend and reenact (17-2A-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §17F-1-9 of said code; and to amend and reenact §20-15-2 of said code, all relating to off-highway vehicles; defining “off-highway vehicle” and “off-road vehicle”; creating digital road map for certain roads and vehicles, including off-highway vehicles; and making technical corrections”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 693 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the West Virginia Uniform Fiduciary Access

to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth procedure for disclosing digital assets; providing for disclosure of content of electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when trustee is not an original owner or user; addressing disclosure of digital assets to conservator of a protected person; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; providing for severability of article; and setting date when article takes effect"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title as follows:

S. J. R. 4 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; which was referred to the Committee on Finance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title as follows:

S. J. R. 6 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section twelve, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$1.6 billion to be used for improvement and construction of state roads; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017 to be set by the Governor; and providing a summarized statement of the purpose of such proposed amendment”; which was referred to the Committee on Finance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 13 – “Requesting the Division of Highways to name a portion of County Route 19/12, Blue Jay Drive, near Beaver, WV, beginning at point (37.751566) (-81.147914), at the intersection of Ritter Drive and Skyline Drive, and ending at point (37.737316) (-81.136157), at the intersection of Oak Street and Rabbit Run, the ‘U. S. Army CPL James Russell Carter Memorial Road’.”

Whereas, CPL James Russell Carter was born September 19, 1929, in Raleigh, West Virginia, to Russell and Agatha Carter; and

Whereas, CPL Carter grew up in Raleigh and Blue Jay, West Virginia and attended Shady Spring High School and the Raleigh Mine Institute; and

Whereas, Before enlisting in the United States Army, CPL Carter worked as a delivery driver for Coca-Cola; and

Whereas, On March 3, 1950, CPL Carter enlisted in the United States Army, attending basic training and artillery training in Fort Knox, Kentucky; and

Whereas, Upon completion of training, CPL Carter was sent to Fort Lewis, Washington, where he boarded a ship for Korea; and

Whereas, Upon arriving in Korea in August of 1950, CPL Carter was assigned to the 15th Field Artillery Battalion A Battery, participating in battles along the Naktong perimeter and the push north to the Chinese-Korean border along the Yalu River; and

Whereas, Following China's entry into the Korean theater, CPL Carter fought battles at Kunu-Ri and Hoengsong Valley north of Wonju; and

Whereas, On February 13, 1951, during the Battle of Hoengsong, later called the Hoengsong Valley Massacre, CPL Carter was captured while his unit was attempting to clear a Chinese road block; and

Whereas, CPL Carter subsequently died at the hands of his Chinese captors on the side of a remote Korean road never to be seen again; and

Whereas, A TIME correspondent called the Hoengsong Valley Massacre, "[P]art of the most horribly concentrated display of American dead since the Korean War began."; and

Whereas, Korean War veteran Dick Ecker described the massacre thusly, "It was, of course, the nature of the fatalities in this action that was the real tragedy—many of them MIA, never found and declared dead or captured and died in captivity."; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of County Route 19/12, Blue Jay Drive, near Beaver, WV, beginning at point (37.751566) (-81.147914), at the intersection of Ritter Drive and Skyline Drive, and ending at point (37.737316) (-81.136157), at the intersection of Oak Street and Rabbit Run, the "U. S. Army CPL James Russell Carter Memorial Road"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the "U. S. Army CPL James Russell Carter Memorial Road"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 23 - Requesting the Division of Highways to name bridge number 30-52 2.73 (30A110), (37.82180, -82.39737), between Kermit and East Kermit, locally known as the Upper Burning Creek Bridge, carrying U. S. 52 over Upper Burning Creek and NS Railroad in Mingo County, the 'Johnny O'Dell Linville Memorial Bridge'."

Whereas, Johnny O'Dell Linville was born April 29, 1947, to Lenhart and Hazel Lovejoy Linville in their home at Palermo, Lincoln County, West Virginia. The family moved to Kermit, West Virginia, when Johnny was three years of age. He had four brothers and two sisters; and

Whereas, Johnny O'Dell Linville was educated in Kermit. He married Dorothy Spaulding Linville on September 3, 1966. They had one daughter, Rhonda Linville Muncy; and

Whereas, Johnny O'Dell Linville served as the mayor in the Town of Kermit for more than 17 years, and he also served as a councilman for three years; and

Whereas, Johnny O'Dell Linville played a pivotal role in a multitude of projects, including the Kermit Community Park that serves to this day as a popular gathering place for social events and the town's new sewer system. He also planted trees and flowers throughout the town; and

Whereas, Johnny O'Dell Linville's love for the town was shown in his efforts to make Kermit the Cleanest Little Town in West Virginia. One of his slogans was: "If you litter in Kermit, you have had a bad day!" This resulted in the perpetrator receiving a hefty fine; and

Whereas, Johnny O'Dell Linville played a huge part in the creation of the baseball field at East Kermit. He would work the PA system for hours each day and announce the names of the baseball players from the press box. He would be there from opening day to the season finale, from the top to the bottom of the schedule each day, always with a smile on his face, knowing the benefits that the field provided for the community and its children; and

Whereas, Johnny O'Dell Linville died on March 1, 2016, following a two-year struggle with kidney disease. He is survived by his loving wife of 49 years Dorothy Spaulding Linville of Kermit, his daughter Rhonda Linville Muncy, son-in-law Gabe Muncy and grandson John Alex Muncy, who is a student at Marshall University; and

Whereas, Naming this bridge in his hometown is an appropriate recognition of Mayor Johnny O'Dell Linville's contributions to his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-52 2.73 (30A110), (37.82180, -82.39737), between Kermit and East Kermit, locally known as the Upper Burning Creek Bridge, carrying U. S. 52 over Upper Burning Creek and NS Railroad in Mingo County, the "Johnny O'Dell Linville Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the "Johnny O'Dell Linville Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 24 – “Requesting the Division of Highways to name bridge number 17-58-0.01 (17A225), (39.25187, -80.31860), locally known as the Stonewood Bridge, carrying WV 58 over Elk Creek in Harrison County, the ‘U. S. Army PFC Joe Messe, Sr., Memorial Bridge’.”

Whereas, Joe Messe, Sr., was born in Stonewood, Harrison County, West Virginia, on May, 7, 1922; and

Whereas, Joe answered the call to serve his country during World War II, joining the 517th Field Artillery Battalion; and

Whereas, During the war, Joe served as a heavy artillery gun crewman, with specializations in rifle marksmanship and T. S. M. G. sharpshooting, employing his skills for the betterment of the American war effort in the Northern Solomon and Luzon Campaigns; and

Whereas, Joe’s battalion performed laudably in both the Solomon Islands and the Philippines, ultimately receiving a commendation from Brigadier General of the U. S. Army H. R. Barter for their impeccable performance in the line of duty; and

Whereas, Joe’s service to his country honors his family, his community and the entire State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 17-58-0.01 (17A225), (39.25187, -80.31860), locally known as the Stonewood Bridge, carrying WV 58 over Elk Creek in Harrison County, the “U. S. Army PFC Joe Messe, Sr., Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Joe Messe, Sr., Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 26 – “Requesting the Division of Highways to name bridge number 21-10-13.70 (21A028), (39.10653, -80.51671), locally known as Mare Run Arch, carrying county Route 10 over Mare Run in Lewis County, the ‘U. S. Marine Corps SSG Beecher J. Rhoades Memorial Bridge’.”

Whereas, SSG Beecher J. Rhoades was born in Wheeling on March 15, 1926, a son of the late Beecher J. Rhoades and Grayce Long Rhoades; and

Whereas, SSG Beecher J. Rhoades married the former Betty Elizabeth Burnside on April 10, 1948, and they were married for more than 66 years; and

Whereas, SSG Beecher J. Rhoades was an honored veteran of the United States Marine Corps, having served in World War II and the Korean War. In 2006, he was recognized as the Marine Corps League's Marine of the Year; and

Whereas, SSG Beecher J. Rhoades was an active volunteer who also served as the Marine Corps League, Department of West Virginia 21st Commandant; and

Whereas, SSG Beecher J. Rhoades retired from the Equitable Gas Company with 33 years of service, retiring in 1985. He was an outdoor enthusiast who enjoyed farming, fishing, traveling and flying his Cherokee airplane; and

Whereas, SSG Beecher J. Rhoades was also a member of the Masonic Lodge #10 AF and AM and the Freemansburg United Methodist Church; and

Whereas, SSG Beecher J. Rhoades passed away on May 22, 2014, and naming the bridge in Lewis County for him would be a fitting recognition of his service to his country, state and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 21-10-13.70 (21A028), (39.10653, -80.51671), locally known as Mare Run Arch, carrying county Route 10 over Mare Run in Lewis County, the "U. S. SSG Beecher J. Rhoades Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Marine Corps SSG Beecher J. Rhoades Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 31 – "Requesting the Division of Highways to name bridge number 42-219/34-0.12 (42A161), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the 'U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge'."

Whereas, Boiler Technician Hutchison was born on March 30, 1963, in Elkins, to Edward S. Hutchison and Helen Ruth "Purkey" Hutchison; and

Whereas, Boiler Technician Hutchison was the youngest of the five Hutchison children. He grew up in the Elkins area where he attended school as well as the Vo-Tech Center until graduation from Elkins High School in 1981. He was involved in many local organizations and activities including the Boy Scouts, the Izaak Walton League and the Woodford United Methodist Church; and

Whereas, Boiler Technician Hutchison enlisted in the U. S. Navy on April 12, 1983, and served honorably as a BT2 Class Boiler Technician, and was deployed to the Middle East during Operation Desert Shield in August, 1990; and

Whereas, Boiler Technician Hutchison was killed in a tragic boiler room accident aboard the USS Iwo Jima on October 30, 1990, and was hailed for his bravery and heroism by shipmates and the author Timothy Cummings who wrote an investigative report for Chief Engineer Magazine for his efforts to save the ship and protect his fellow shipmates when the horrific accident occurred; and

Whereas, Boiler Technician Hutchison's body was returned to his birthplace for final military rites and burial in the Mountain State Memorial Gardens on November 5, 1990; and

Whereas, Boiler Technician Hutchison's father, Edward S. Hutchison, is a 92-year-old WWII Navy Veteran who served from 1943 to 1945. He served in several theaters of war during this time including his participation as an operator of LCVP landing craft and the landing of troops on the beaches of Normandy on D-Day, June 6, 1944. Mr. Hutchison also served as an Elkins City Councilman for several years during the 1970s; and

Whereas, It is fitting that an appropriate memorial recognizing U. S. Navy Boiler Technician Mark Edward Hutchison and the sacrifice he made be established in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 42-219/34-0.12 (42A161), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the "U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge"; and, be it

Further Resolved, That the Clerk is hereby requested to forward a copy of this resolution to the Commissioner of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 32 – "Requesting the Division of Highways to name the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the 'U. S. Army SGT Denver E. Short Memorial Road'."

Whereas, Denver E. Short was born May 6, 1921, in Logan County, at Davin on Huff Creek, he attended Man High School and later married Margaret Parsons from West Logan, and they had two daughters, Katy Short Ojeda and Brenda Short Thomas; and

Whereas, Denver E. Short enlisted in the U. S. Army in August, 1941, and was honorably discharged on September 27, 1945, after having participated in historic battles in central Europe and received medals for his service and for wounds received in action; and

Whereas, As a platoon Sergeant in Headquarters Battery of the 155th Airborne Anti-Aircraft Battalion, Sergeant Denver E. Short served in four European wartime campaigns: In Normandy; the Rhineland; the Ardennes; and central Europe; and

Whereas, Sergeant Denver E. Short suffered his first combat wound from small arms fire on D-Day, June 6, 1944, he was subsequently wounded in Belgium in 1944 and again in France in 1945. As a result of his wounds, he was hospitalized on numerous occasions, first in a hospital in England and two different extended stays in hospitals in France, and was awarded three separate Purple Heart Medals for his wounds; and

Whereas, Sergeant Denver E. Short also received the first Oak Leaf Cluster to his first Purple Heart Medal, a second Oak Leaf Cluster to his second Purple Heart Medal and two Distinguished Unit Badges; and

Whereas, Sergeant Denver E. Short passed away on August 26, 2001, and was a proud veteran, great father and husband, a quiet, humble man, a devout Christian and a true American hero; and

Whereas, Naming the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the "U. S. Army SGT Denver E. Short Memorial Road", is an appropriate recognition of his service and sacrifices for his country as a part of The Greatest Generation and service to his state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the "U. S. Army SGT Denver E. Short Memorial Road"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the "U. S. Army SGT Denver E. Short Memorial Road"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 41 – "Requesting the Division of Highways name bridge number 03-9-3.08 (03A052), (37.94999, -81.85885), locally known as Hewitt Bridge 3642, carrying County Route 9 over the Hewitt Creek in Boone County, the 'U. S. Army PV2 Mandvial S. "Bunker" Bias Memorial Bridge'."

Whereas, Private Bias was born July 25, 1893, in Hewett, Boone County. He was the son of Mann Bias and Parthena Bias and a descendant of Obediah Bias, one of the first settlers of Hewett; and

Whereas, Private Bias married Leora Baldwin and they had ten children: Audley, Ruby, Ruth, Eugene, Darlene, Joey, Christena, James Otis, Yvonna Lee and Sherry; and

Whereas, Private Bias loved West Virginia and lived all his life in Boone County where he raised his family while working in the coal mines, timbering and always raising a large garden; and

Whereas, Private Bias was a kind and generous man with family and many friends gathering at their home on Sundays, with sometimes as many as fifty people gathering. After dinner, they would gather outside under shade trees to visit and discuss cars, hunting and politics; and

Whereas, Private Bias served his country during World War I; and

Whereas, Private Bias passed away on October 13, 1973; and

Whereas, Private Bias served his country and his state with honor and distinction; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 03-9-3.08 (03A052), (37.94999, -81.85885), locally known as Hewitt Bridge 3642, carrying County Route 9 over the Hewitt Creek in Boone County, the "U. S. Army PV2 Mandvial S. 'Bunker' Bias Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PV2 Mandvial S. 'Bunker' Bias Memorial Bridge"; and, be it

Further Revolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 43 – "Requesting the Division of Highways to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the 'Eugene Lee "Gene" Burner Memorial Bridge'."

Whereas, Eugene Lee "Gene" Burner was born on May 1, 1919, and raised in Durbin, West Virginia, the son of Dr. Allen Eugene Burner and Mabel Wilson Burner; and

Whereas, Gene attended the Durbin Grade School and Green Bank High School before attending West Virginia University and earning a Bachelor of Science and Master of Science in Physics; and

Whereas, Gene worked as a research physicist and instrument engineer at the U. S. Bureau of Mines in Morgantown, West Virginia, for many years until his retirement in 1975. During his time at the Bureau of Mines, Gene helped develop a process for the gasification of coal that has greatly contributed to improving West Virginia's coal and energy industries; and

Whereas, After raising three children in Morgantown, Gene and his beloved wife, Bonnie Pugh Burner, moved back to Pocahontas County in 1975. While in Pocahontas County, Gene worked to restore the old white farmhouse on Burner Hill near Cass, which was originally constructed in the early 1900s by Gene's uncle; and

Whereas, Gene also was an active member of his community. Always a talented pianist and tenor soloist, Gene played the piano and organ at three churches in the area, in Cass, Durbin and Arbovale, sometimes all on the same day. Gene also lent his musical talents to weddings and funerals, often playing with his mother and his second wife, Louise Shears Burner; and

Whereas, Gene further demonstrated his commitment to his community by serving on the boards of Methodist churches in the area and the Arbovale Cemetery. His focus on expanding and maintaining the buildings and grounds of local churches and cemeteries continues to enhance the lives of people within the communities of Pocahontas County. Of particular note, Gene supported and actively worked with other citizens and groups to ensure that grave markers for some of Pocahontas County's pioneers and most notable citizens were accurately marked and well preserved; and

Whereas, Gene's interests and talent also extended to history and genealogy. Before and after Gene's return to Pocahontas County, he performed extensive research on his family history and his ancestors' connection to the town of Cass and other lumber towns in Pocahontas County. Gene was an active contributor to the Pocahontas County Historical Society, providing pictures that he discovered during his research and taking photographs of historical buildings in the region, including former one-room schoolhouses and churches; and

Whereas, Gene also loved making and capturing memories anywhere he went. He was a fixture at civic events, cake walks, school activities, sporting events and class and family reunions, always bringing a camera, a light meter and tripod in tow. Gene loved to socialize with family and friends, but also never failed to memorialize events with candid shots and group photos. His extensive file of negatives is truly a treasure, providing a pictorial narrative of the life, culture and history of the people of Pocahontas County, West Virginia; and

Whereas, On August 6, 2008, Gene passed away, thirty-three years after his return to Pocahontas County. Despite his passing, Gene has left an indelible mark on Pocahontas County and the State of West Virginia, not just through his good works and deeds, but through his love for his community and the way in which he touched the lives of everyone that knew him. For these reasons and more, it is fitting to erect a sign memorializing Gene and his life well-lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the "Eugene Lee 'Gene' Burner Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Eugene Lee 'Gene' Burner Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 44 – "Requesting the Division of Highways to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343), locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the 'Tug Valley Students Memorial Bridge'."

Whereas, The West Virginia Division of Highways built this bridge in 2016; and

Whereas, The bridge furthers the economic development of Mingo County; and

Whereas, The bridge has enabled the Mingo County Board of Education to develop and improve the Tug Valley High School and its athletic facilities; and

Whereas, These upgrades improve the education and quality of life for all Tug Valley students; and

Whereas, Numerous students of Tug Valley High School perished at an early age while attending the school; and

Whereas, Those students deserve a lasting memorial celebrating their lives; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343), locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the "Tug Valley Students Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Tug Valley Students Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 45 – "Requesting the Division of Highways to erect a sign along each side of Interstate 68 between mile markers one and seven, in Monongalia County, proclaiming 'Home of Anna Lindquist — 1996 NHPA Hall of Fame Inductee'."

Whereas, Anna Lindquist, at the urging of several women competitors and without any real experience, pitched her first national horseshoe pitching event at the age of thirteen; and

Whereas, Anna Lindquist was a resident of Morgantown, West Virginia, married to the late Arner Lindquist, himself an avid horseshoe pitcher who won many prizes in and around the Morgantown region and qualified for the world championships nine times; and

Whereas, Anna Lindquist, in 1948 and again in 1949, became the Women's World Champion Horseshoe Pitcher. Little documentation remains of her 1949 achievements; however, 1948 documentation shows Anna won the 1948 championship with a 7-0 record; and

Whereas, Anna Lindquist went on to compete in seven additional Women's World Tournament events placing second three additional times and third in three events. Anna failed to make the top three in just two of her championship events, yet still managed to finish with a sixth and eighth place finish; and

Whereas, Anna Lindquist is noted for winning 48 matches in her championship appearances; and

Whereas, Anna Lindquist is credited with establishment of the Horseshoe Pitchers Association of West Virginia charter in 1947 and served as the charter secretary-treasurer from 1948-1963. She was elected the National Horseshoe Pitching Association Vice President in 1963; and

Whereas, Sadly, Anna Lindquist passed away on February 5, 1968, following a lengthy illness; and

Whereas, Anna Lindquist, having won two world championships, averaged at least seventy-five percent in the top five of one or more championship division finals at least four times, and participated in nine championships with a seventy percent score or better, was inducted into the National Horseshoe Pitching Association Hall of Fame in 1996; and

Whereas, It is most fitting that the West Virginia Legislature pay tribute to the accomplishments of Anna Lindquist; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect a sign along each side of Interstate 68 between mile markers one and seven, in Monongalia County, proclaiming "Home of Anna Lindquist — 1996 NHSPA Hall of Fame Inductee"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed along each side of Interstate 68 between mile markers one and seven, in Monongalia County, a sign indicating, "Home of Anna Lindquist — 1996 NHSPA Hall of Fame Inductee"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 484 - "A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating generally to taxation; and eliminating exemption from consumers sales and service tax for certain purchases of materials acquired for use in state highway projects"; which was referred to the Committee on Finance.

Miscellaneous Business

Delegate Hornbuckle noted to the Clerk that he was absent when the votes were taken on Roll Nos. 265, 266 and 267, and that had he been present, he would have voted "Yea" thereon.

Delegate Lewis noted to the Clerk that he was absent when the vote was taken on Roll No. 270, and that had he been present, he would have voted "Nay" thereon.

At 6:54 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 31, 2017.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Friday, March 31, 2017

52nd Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 36 - Permitting school nurses to possess and administer opioid antagonists (ELLINGTON) (REGULAR)
- S. B. 41 - Extending time person may be subject to probation (SHOTT) (REGULAR)
- S. B. 164 - Relating to traffic regulations and special load limits (SHOTT) (REGULAR)
- Com. Sub. for S. B. 233 - Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act (SHOTT) (REGULAR)
- Com. Sub. for S. B. 247 - Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 248 - Clarifying composition and chairmanship of Commission on Special Investigations (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 338 - Relating to medical professional liability (SHOTT) (REGULAR)
- Com. Sub. for S. B. 347 - Relating to modernization of Physician Assistant Practice Act (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 437 - Discontinuing WV Greyhound Breeding Development Fund (NELSON) (REGULAR)
- Com. Sub. for S. B. 442 - Relating generally to crimes against persons (SHOTT) (REGULAR)
- Com. Sub. for S. B. 455 - Relating generally to commitment of persons to custody of Commissioner of Corrections (SHOTT) (REGULAR)
- Com. Sub. for S. B. 473 - Permitting collection and sale of naturally shed deer antlers (HAMILTON) (REGULAR)

- Com. Sub. for S. B. 497 - Relating to liability for health care providers who provide services at school athletic events (SHOTT) (REGULAR)
- Com. Sub. for S. B. 531 - Relating to renewal date for apiary certificates of registration (SHOTT) (REGULAR)
- Com. Sub. for S. B. 634 - Relating generally to certain agreements between DHHR and state's medical schools (REGULAR)
- S. B. 684 - Relating generally to WV State Police (SHOTT) (EFFECTIVE FROM PASSAGE)

SECOND READING

- Com. Sub. for S. B. 5 - Disqualifying CDL for DUI conviction in certain cases (SHOTT) (REGULAR)
- Com. Sub. for S. B. 151 - Authorizing Department of Administration promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 206 - Expanding definition of "kidnapping" to include taking or gaining custody of, confining or concealing person by force (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 214 - Adopting Uniform Electronic Legal Material Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 222 - Relating to disqualification for unemployment benefits (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 225 - Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 256 - Relating to prohibiting aiding and abetting of sexual abuse by school personnel (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 261 - Relating to increasing salary or wages of judgment debtor (SHOTT) (REGULAR)
- Com. Sub. for S. B. 386 - Creating WV Medical Cannabis Act (REGULAR)

- Com. Sub. for S. B. 445 - Amending definition of "abused child" (SHOTT) (REGULAR)
- Com. Sub. for S. B. 456 - Relating to standards for termination of parental rights in child abuse and neglect cases (SHOTT) (EFFECTIVE FROM PASSAGE)

FIRST READING

- Com. Sub. for S. B. 125 - Authorizing DHHR promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 172 - Eliminating salary for Water Development Authority board members (HOWELL) (JULY 1, 2017) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)
- S. B. 173 - Relating generally to autocycles (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 204 - Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 224 - Repealing requirement for employer's bond for wages and benefits (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 230 - Relating to certain WV officials carrying concealed firearm nationwide (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 239 - Limiting use of wages by employers and labor organizations for political activities (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 349 - Repealing outdated code related to Division of Corrections (HOWELL) (REGULAR)
- S. B. 400 - Regarding appointments to WV Infrastructure and Jobs Development Council (HOWELL) (REGULAR)
- Com. Sub. for S. B. 522 - Relating to pharmacy audits (WESTFALL) (REGULAR) (BANKING AND INSURANCE COMMITTEE AMENDMENT PENDING)

S. B. 554 - Relating to false swearing in legislative proceeding (SHOTT)
(REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 575 - Limiting nuisance actions against shooting ranges for noise
(SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

HOUSE CALENDAR

Friday, March 31, 2017

52nd Day

11:00 A. M.

THIRD READING

Com. Sub. for H. B. 2817 - Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period (NELSON) (JULY 1, 2017)

H. B. 3107 - Relating generally to horse and dog racing lottery (NELSON) (EFFECTIVE FROM PASSAGE) [AMENDMENTS PENDING]

H. B. 3109 - Relating to establishing a Board of Nursing and Health Services (HOWELL) (REGULAR) [AMENDMENTS PENDING]

SECOND READING

Com. Sub. for H. B. 2538 - Relating to the licensure of physician assistants (HOWELL) (REGULAR)

Com. Sub. for H. B. 2871 - Eliminating the mandated employer versus employee cost share of eighty percent employer, twenty percent employee for Public Employee Insurance Agency (NELSON) (REGULAR)

FIRST READING

H. B. 2500 - Supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 2501 - Supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program (NELSON) (EFFECTIVE FROM PASSAGE)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, MARCH 31, 2017

HOUSE CONVENES AT 11:00 A.M.

PUBLIC HEARING – COMMITTEE ON THE JUDICIARY

8:30 A.M. – HOUSE CHAMBER

**COM. SUB. FOR S. B. 212, RELATING GENERALLY TO PROCEDURES FOR
DRIVERS' LICENSE SUSPENSIONS AND REVOCATIONS.**

COMMITTEE ON GOVERNMENT ORGANIZATION

9:00 A.M. – ROOM 215E

COMMITTEE ON THE JUDICIARY

9:30 A.M. – ROOM 418M

COMMITTEE ON EDUCATION

9:30 A.M. – ROOM 434M

COMMITTEE ON RULES

10:45 A.M. – BEHIND CHAMBER

COMMITTEE ON VETERANS' AFFAIRS

IMMEDIATELY AFTER FLOOR SESSION – ROOM 215E

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470