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FIFTY-FIFTH DAY

Monday, April 3, 2017

FIFTY-FIFTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Saturday, April 1, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of H. C. R. 26 and H. C. R. 94 on Unfinished Business.

H. C. R. 26, Naming the NASA IV&V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson; was read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 308**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw, Householder, Longstreth, Queen and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 26) adopted.

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

H. C. R. 94, Katherine Johnson Day; was read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 309**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw, Householder and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 94) adopted.

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

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of Com. Sub. for H. B. 2801 on first reading Special Calendar.

Com. Sub. for H. B. 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund; was read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 310**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin and Folk.

Absent and Not Voting: Hanshaw and Upson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to engrossment and third reading.

Having been engrossed, the bill was read a third time, and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 311**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart and McGeehan.

Absent and Not Voting: Criss, Hanshaw and Upson.

So, a majority of the members elected to the House having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2801) passed.

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

On this question, the yeas and nays were taken (**Roll No. 312**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Hanshaw and Upson.

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. 2801) takes effect from its passage.

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

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of H. B. 3103 on first reading, Special Calendar.

H. B. 3103, Making a supplementary appropriation to the Department of Health and Human Resources; was read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 313**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Hanshaw and Upson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to engrossment and third reading.

Having been engrossed, the bill was read a third time, and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 314**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw and Upson.

So, a majority of the members elected to the House having voted in the affirmative, the Speaker declared the bill (H. B. 3103) passed.

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

On this question, the yeas and nays were taken (**Roll No. 315**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3103) takes effect from its passage.

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

Committee Reports

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:

Com. Sub. for S. B. 636, Authorizing State Fire Commission establish a program to address problems facing VFDs,

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

On motions for leave, resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they each be adopted), which were read by their titles, as follows:

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:
H. C. R. 111 - "Requesting the Joint Committee on Government and Finance study the organization, structure, staffing levels, and functions of the Office of Technology and the Information Services and Communications Division within the Department of Administration."

Whereas, Technology advancement and the use of advanced technologies throughout state government requires periodic analysis and assessment to ensure the most efficient and effective technologies are developed, available, supported and maintained by various agencies to facilitate the business of the state; and

Whereas, The Office of Technology, and the Information Services and Communications Division, have evolved and merged over time, with the goal of reducing technology costs, standardizing technology equipment and procedures for the executive branch, to centralize information technology support staff, and generally improve the technology and technological services available to the executive branch; and

Whereas, The Legislature is committed to maximizing efficiencies, eliminating redundancy among government offices and providing the highest quality of services to the public; and

Whereas, Technology represents a critical infrastructure component of state government and the periodic evaluation and assessment of the various technology services available to the executive branch is necessary to determine the best policies and practices; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the organization, structure, staffing levels, and functions of the Office of Technology and the Information Services and Communications Division within the Department of Administration; and, be it

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

Further Resolved, That the Office of Technology, the Information Services and Communications Division, the Department of Administration, the West Virginia Enterprise Resource Planning Board, the WV OASIS Project, Change Control Board and Steering Committee, shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:
H. C. R. 112 - "Requesting the Joint Committee on Government and Finance study the possible negative impact imposed on individuals created by unnecessary barriers to employment created by occupational licensing requirements."

Whereas, Securing gainful employment is a critical component of a fulfilling life; and

Whereas, West Virginians deserve to have reasonably limited barriers to entrepreneurial success; and

Whereas, In 2016 West Virginia was indicated to have the 17th most burdensome occupational licensing structure in the nation; and

Whereas, Limiting barriers to market entry will create jobs and help diversify our economy; and

Whereas, It is in the state's interest to expand employment opportunities for all West Virginians; and

Whereas, Many occupational licensing requirements are outdated, unnecessary or overly burdensome on individuals; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the possible negative impact imposed on individuals created by unnecessary barriers to employment created by occupational licensing requirements; and, be it

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

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

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Iaquina, Lewis, Lynch, Marcum, Martin, Paynter, Pyles, C. Romine and Sypolt:

H. C. R. 113 - "Requesting the Joint Committee on Government and Finance study the Alcohol Beverage Control Administration, its overlap of duties and responsibilities with the West Virginia Lottery, the powers and duties of the Alcohol Beverage Control Administration and West Virginia Lottery, the cost-savings of abolishing the Alcohol Beverage Control Administration and transferring all duties to the West Virginia Lottery, and the policies governing the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors."

Whereas, The Legislature is committed to promoting economic development, market competition and the personal freedom consistent with health, safety, welfare, peace and good morals of the people of this state; and

Whereas, The Legislature recognizes that it is public policy of this state to regulate and control the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors, therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Alcohol Beverage Control Administration, its overlap of duties and responsibilities with the West Virginia Lottery, the powers and duties of the Alcohol Beverage Control Administration and West Virginia Lottery and policies governing the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors; and, be it

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

Further Resolved, That the Alcohol Beverage Control Administration and the West Virginia Lottery shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 114 - "Requesting the Joint Committee on Government and Finance study the structure, organization, staffing levels, and operations of the West Virginia Division of Labor, to evaluate the programmatic activity of the division and determine if efficiencies, redundancies or economies of scale can be found by streamlining operations therein."

Whereas, The Division of Labor is charged with regulatory oversight and enforcement over a variety of areas, including bedding and upholstery furniture, contractor licensing, crane operator certification, manufactured housing, safety over elevator, amusement rides, boiler, OSHA consultation, zip line and canopy tours, supervision of plumbing work, wage and hour and weights and measures; and

Whereas, The Division of Labor has not been evaluated by the Legislative Auditor since 2002, and since that time the division has been assigned additional programs and responsibilities; and

Whereas, The Legislature is committed to reviewing regulatory operations among the various agencies of state to determine the most efficient, cost effective and practical manner to protect the public, while being the least burdensome to industry; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the structure, organization, staffing levels, and operations of the West Virginia Division of Labor, to evaluate the programmatic activity of the division and determine if efficiencies, redundancies or economies of scale can be found by streamlining operations therein; and, be it

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

Further Resolved, That the Division of Labor, and the regulatory boards and offices thereunder, shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Iaquinta, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 115 - "Requesting the Joint Committee on Government and Finance study the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses, the benefits of merging the boards to facilitate participation in national compacts, the cost-savings of combining the two boards, the overlap of the occupations licensed by the boards, and the overlap of representation on the boards by qualifications of board members."

Whereas, The Legislature is committed to promoting efficiencies and economies of scale among the regulator offices regarding the regulations necessary for the citizens to obtain the occupational licenses in this state; and

Whereas, The Legislature recognizes the importance of licensure, oversight, and representation of the occupations in the nursing field, therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses, the benefits of merging the boards to facilitate participation in national compacts, the cost-savings of combining the two boards, the overlap of the occupations licensed by the boards, and the overlap of representation on the boards by qualifications of board members; and, be it

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

Further Resolved, That the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 116 - "Requesting the Joint Committee on Government and Finance study the Real Estate Division within the Department of Administration, including the powers and duties of the office, exemptions from the office and corresponding rules and regulations, and the status of a comprehensive inventory of state owned real property."

Whereas, The Legislative Auditor has found that the cost of maintaining state buildings continues to increase and maintenance needs are being deferred where funds are limited; and

Whereas, Historic deferred maintenance of state buildings and uncertainty about public property holdings makes the development of a comprehensive inventory of state owned real property a practical necessity for budgeting purposes; and

Whereas, The Real Estate Division within the Department of Administration is charged with maintaining a statewide database of all state real estate contracts, maintaining a statewide real

property management system, and to provide assistance to all state departments, agencies or institutions in acquiring, leasing and disposing of real property; and

Whereas, The Legislature is committed to the proper management of the state's assets, by periodically reviewing the various state agencies charged with developing state real estate inventories, including those agencies exempt from the Real Estate Division article, and by reviewing strategic real estate maintenance plans, to ensure there is no duplication of efforts, that all real estate is accounted for, and that proper management plans are established to safeguard and protect the states investments; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Real Estate Division within the Department of Administration, including the powers and duties of the office, exemptions from the office and corresponding rules and regulations, and the status of a comprehensive inventory of state owned real property; and, be it

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

Further Resolved, That the Real Estate Division, the Department of Administration, the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, the Public Land Corporation, the Division of Natural Resources, the Division of Highways, and the Department of Transportation shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

And,

By Delegates Howell, Arvon, Atkinson, Brewer, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Iaquina, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine, Sypolt and Williams:

H. C. R. 117 - "Requesting the Joint Committee on Government and Finance study state vehicle utilization policies, the contradicting and overlapping policies of the Fleet Management Office and Travel Management Office, and the responsibilities of each agency in providing management services and the implementation of proper travel rules and regulations for executive branch agencies that use state vehicles."

Whereas, The Legislature is committed to promoting government responsibility, transparency, and proper management oversight of state vehicle use; and

Whereas, The Legislature recognizes the need to periodically evaluate various policies to ensure tax payer resources are adequately available, properly maintained and properly utilized, therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study state vehicle utilization policies, the contradicting and overlapping policies of the Fleet Management Office and Travel Management Office, and the responsibilities of each agency in providing management services and the implementation of proper travel rules and regulations for executive branch agencies that use state vehicles; and, be it

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

Further Resolved, That the Fleet Management Office, Travel Management Office, and West Virginia Purchasing Division shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

The Speaker referred the resolutions (H. C. R. 111, H. C. R. 112, H. C. R. 113, H. C. R. 114, H. C. R. 115, H. C. R. 116 and H. C. R. 117) to the Committee on Rules.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 78, Almond Brothers and Family Veterans Bridge,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 96, U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge,

And,

H. C. R. 103, U S Army PFC Tracy Victor Rohrbaugh Memorial Bridge,

And reports the same back with the recommendation that they each be adopted

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:

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program,

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 Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 441) to the Committee on Finance 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. 134, Authorizing Bureau of Commerce to promulgate legislative rules combined with **S. B. 426**, Repealing DNR legislative rule on litter control grant program,

Com. Sub. for S. B. 255, Relating generally to filling vacancies in elected office,

Com. Sub. for S. B. 240, Creating crime of nonconsensual distribution of sexual images,

S. B. 578, Relating generally to copies of health care records furnished to patients,

And,

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

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

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. 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors,

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code,

S. B. 490, Clarifying standard of liability for officers of corporation,

Com. Sub. for S. B. 606, Relating to minimum wage and maximum hours for employees,

And,

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities,

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

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:

S. B. 521, Relating generally to Public Defender Services,

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

In accordance with the former direction of the Speaker, the bill (S. B. 521) was referred to the Committee on Finance.

Resolutions Introduced

Delegate Hanshaw offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 118 – “Requesting the Division of Highways name bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the ‘Craddock Brothers Bridge’.”

Whereas, Leo Craddock, Gale Craddock, Harold Craddock, Doyle Craddock, Ronald Craddock, Larry Craddock, and Homer Craddock were all raised in Calhoun County, West Virginia, the sons of Glover and Ellen Slider Craddock; and

Whereas, Leo, Gale, Harold, Doyle, Ronald, and Larry Craddock all served honorably in the United States military; and

Whereas, Leo Craddock attained the rank of Staff Sergeant while serving in the U.S. Army Air Corps in Air Training Command in communications and radio mechanic instruction from 1948 to 1952. He received the Army Good Conduct Medal and National Service Medal; and

Whereas, Gale Craddock was a petty officer in the U.S. Navy from 1948 to 1952 and served aboard U.S. Aircraft Carrier Antietam in Task Force 77 in the Sea of Japan as an A/E technician. He received a Korean Service Medal with three stars, U.N. Service Ribbon, Navy Occupation Service Medal with Asia Clasp, and Good Conduct Medal; and

Whereas, Harold Craddock served in the U.S. Army from 1953 to 1955 and served 18 months in Korea in railway and other forms of transportation systems. He received the Good Conduct Medal and other medals; and

Whereas, Doyle Craddock served in the U.S. Marine Corps, Third Battalion Reinforced Sixth Marines, from 1954 to 1956. He served in seven different countries and/or islands throughout the Mediterranean, including Crete, Porto Scudo, Sardinia, Oran, Genoa and Naples, Italy, Barcelona, Spain, Salonika, Greece, Izmir and Lapezia, Turkey, and Marseilles and Taronto, France. He received the Good Conduct Medal and National Defense Services Medal; and

Whereas, Ronald Craddock served in the U.S. Air Force from 1958 to 1962 in Air Force Security, completing missions in Africa, France, England, and Azores; and

Whereas, Larry Craddock served in the U.S. Army from 1965 to 1968 and was assigned to Cam Rahn Bay. He served two tours of duty in Vietnam, the first from June 1966 to June 1967 and then returned to Pleiku, Vietnam, in 1968 for his final assignment; and

Whereas, Leo, Gale, Harold, Doyle, Ronald, and Larry Craddock did a great service to their country in time of conflict and war, and will always be remembered for their service; and

Whereas, It is fitting and proper to honor the Craddock brothers for their dedication, commitment and sacrifice to their state and country, by naming bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the "Craddock Brothers Bridge"; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the "Craddock Brothers 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 "Craddock Brothers Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Marcum, Hornbuckle, Lovejoy, C. Romine, Rohrbach, C. Miller, Thompson, Hicks, Rodighiero and R. Miller offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 119 – "Requesting the Division of Highways to name the portion of County Route 3/2, also named Moses Fork Road, from its intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the 'Donald Tackett Jr. Memorial Road'."

Whereas, Donald Tackett Jr. was born in Dingess, West Virginia, in Mingo County, on March 2, 1947, to Lilly and Donald Tackett Sr.; and

Whereas, Donald Tackett Jr. attended school at Buskirk Grade School and Lenore High School, where he graduated in 1966. While in high school, he played basketball for the Lenore Rangers and worked as a lifeguard at Laurel Lake swimming pool during his summer break; and

Whereas, Donald Tackett Jr. attended Marshall University, where he majored in physical education and special education and was a student trainer and assistant football trainer for the Marshall University athletic department. He was also a member of the National Athletic Trainers Association; and

Whereas, On November 14, 1970, at the age of 23, Donald Tackett Jr.'s life was tragically cut short when the airplane bringing the Marshall University staff and football players home after a game in Greenville, North Carolina clipped trees and crashed into the hillside at Tri-state Airport in Kenova, West Virginia. There were no survivors of the plane crash; and

Whereas, Donald Tackett Jr.'s family knows that he lost his life doing what he loved, but is still loved and missed; and

Whereas, Naming the portion of County Route 3/2, also named Moses Fork Road, from the intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the "Donald Tackett Jr. Memorial Road" is an appropriate recognition of a life cut short by tragedy; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of County Route 3/2, also named Moses Fork Road, from the intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the "Donald Tackett Jr. Memorial Road" and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the section of road "Donald Tackett Jr. Memorial Road"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Delegates Marcum, Thompson, Hicks and Rodighiero offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 120 – "Requesting that the Division of Highways to name Den Branch Road, in Mingo County, near Williamson, beginning at a point, latitude 37.789884, longitude -82.348582 at the intersection of U.S. Route 52 and ending at a point, latitude 37.792063, longitude -82.340803, at Tug Valley High School, the 'Eugene Jack Brewer Memorial Road'."

Whereas, Eugene Jack Brewer was born on March 8, 1932, in Pilgrim, Kentucky to Solady and James Brewer, one of thirteen children; and

Whereas, Jack left school early to find work in order to support his family, hauling coal and laying gas lines in Martin County, Kentucky, working in a factory in Michigan, and ultimately moving to Naugatuck, West Virginia to help his father who was ill with cancer; and

Whereas, In 1956, Jack married the love of his life, Anise, who remained by his side in Naugatuck, West Virginia until the day he passed; and

Whereas, In Naugatuck, Jack worked numerous jobs to care for his family, pulling steel rails out of mines, and working for lumber, furniture and coal companies until a heart attack forced him to retire in 1984; and

Whereas, Jack's forced retirement left him without a sense of purpose in his life until in 1987, Jack found his calling with the creation of Tug Valley High School; and

Whereas, Jack helped the contractors construct the high school, becoming the go-to person when contractors had questions about the property and the location of gas lines; and

Whereas, Once Tug Valley High School was constructed; Jack became the "night watchman" and "grounds keeper" for the football field, cleaning the parking lot after games and monitoring the area for suspicious activity; and

Whereas, Thereafter, Jack became the Tug Valley Panthers biggest fan, becoming a staple at Panthers football games, oftentimes bringing friends and family with him, including his great grandson whom he would wheel to games in a wagon; and

Whereas, Tug Valley High School, in recognition of Jack's many contributions to the school, named him a "Partner in Education" in 1988; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name Den Branch Road, in Mingo County, near Williamson, beginning at a point, latitude 37.789884, longitude -82.348582 at the intersection of U.S. Route 52 and ending at a point, latitude 37.792063, longitude -82.340803, at Tug Valley High School, the "Eugene Jack Brewer 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 "Eugene Jack Brewer Memorial Road"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation and the Commissioner of Highways.

House Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 9, Frenchburg Bridge,

H. R. 11, Supporting and encouraging the enactment of the federal Hearing Protection Act of 2017,

H. C. R. 41, Major Martin Robison Delany Memorial Bridge,

Com. Sub. for H. C. R. 50, Lowe Mountain Memorial Highway,

And,

H. C. R. 105, Army SSG Arthur N. McMellon Memorial Bridge.

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

Third Reading

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules; 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. 316**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Fast and Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) passed.

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

Com. Sub. for S. B. 125 – “A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.”

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

On this question, the yeas and nays were taken (**Roll No. 317**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Hanshaw.

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 S. B. 125) takes effect from its passage.

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

S. B. 172, Eliminating salary for Water Development Authority board members; 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. 318**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Iaquina and Phillips.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 172) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 319**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Iaquina.

Absent and Not Voting: Hanshaw.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 172) takes effect July 1, 2017.

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. 173, Relating generally to autocycles; 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. 320**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: A. Evans, Love, Marcum, Phillips and Upson.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 173) passed.

An amendment to the title of the bill, recommended by the Committee on Roads and Transportation, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 173 - "A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver's license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; defining terms; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections."

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. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses; 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. 321**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 204) passed.

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. 224, Repealing requirement for employer's bond for wages and benefits; 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. 322**), and there were—yeas 85, nays 14, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Byrd, Diserio, Eldridge, Isner, Lynch, R. Miller, Pushkin, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 224) passed.

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

Com. Sub. for S. B. 224 – “A Bill to amend and reenact §21-5-14 and §21-5-15 of the Code of West Virginia, 1931, as amended, relating to the requirement of a bond for wages and benefits for certain designated employers, persons, firms, or corporations; lowering period of time for the requirement that certain designated employers, persons, firms, or corporations shall furnish a bond for wages and benefits to at least one year and providing exemptions; lowering period of time in which a person, firm or corporation is required to file a statement or copy with the Bureau of Employment Programs; lowering period of time employer must have been doing business in order to terminate bond; and increasing the maximum criminal fine for any person, firm, or corporation who knowingly, willfully, and fraudulently disposes of or relocates assets with the intent to deprive employees of their wages and fringe benefits.”

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. 230, Relating to certain WV officials carrying concealed firearm nationwide; 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. 323**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 230) passed.

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. 239, Limiting use of wages by employers and labor organizations for political activities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 349, Repealing outdated code related to Division of Corrections; 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. 324**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 349) passed.

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

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council; 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. 325**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 400) passed.

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

Com. Sub. for S. B. 522, Relating to pharmacy audits; 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. 326**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

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

S. B. 554, Relating to false swearing in legislative proceeding; 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. 327**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 554) passed.

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

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise; on third reading, coming up in regular order, was read a third time.

Delegate Wilson requested to be excused from voting on the passage of Com. Sub. for S. B. 575 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

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

Second Reading

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page six, section three, beginning on line five, after the words "willing landowners", by striking out the semicolon and the Proviso, through the remainder of subsection (a), and inserting in lieu thereof a period.

The bill was ordered to third reading.

S. B. 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 170, Repealing state hemophilia program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 171, Repealing Programs of All-Inclusive Care for Elderly; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 180, Relating to PSC jurisdiction over certain telephone company and internet services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section forty-four, lines forty-two through forty-three, by striking out the words "Beginning no later than the school year 2012-2013 and continuing thereafter, county" and inserting in lieu thereof "County".

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

And,

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

The bill was ordered to third reading.

S. B. 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section four, line two, by striking out the word "eight" and inserting in lieu thereof the word "nine".

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

On page two, incorrectly listed as the second page one, section four, line thirty-eight by adding a new paragraph "(E)" to read as follows:

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

And,

On page two, incorrectly listed as the second page one, section four, line thirty-eight by re-lettering the remaining paragraph accordingly as paragraph "(F)".

The bill was ordered to third reading.

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 321, Reporting requirements of employee information to CPRB; on second reading, coming up in regular order, was read a second time.

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

“Pursuant to its responsibility as a regulatory body, the Consolidated Public Retirement Board shall collect all information regarding individuals employed with a participating public employer of a retirement system administered pursuant to this article necessary to ensure compliance with retirement plan provisions. All participating public employers of a public retirement system administered pursuant to this article shall promptly report all individuals employed with the participating public employer to the Board and include information regarding the individual including, but not limited to, the individual’s name, social security number, gross salary or compensation, rate of pay, hours or days worked or paid, type of pay (salary, hourly or per diem), employment contract period, job title, permanent or temporary employment, full-time or part-time employment, scheduled hours, and benefit eligibility.”

The bill was ordered to third reading.

S. B. 344, Relating to application of payments on consumer credit sale and loans; 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, by striking out everything after the enacting clause and inserting in lieu thereof the following:

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

ARTICLE 2. CONSUMER CREDIT PROTECTION.

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

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

(b) With respect to this subsection:

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

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

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

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

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

This subsection does not apply to delinquency charges permitted under sections one hundred twelve and one hundred thirteen, article three of this chapter; credit line over-the-limit fees; deferral charges permitted under section one hundred fourteen, article three of this chapter; collateral protection insurance permitted under section one hundred nine-a, article three of this chapter; and advances to pay taxes.

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

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

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.**§46A-3-111. Application of payments on account; rebate upon prepayment, refinancing or consolidation; judgments and interest on judgments.**

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

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

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

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

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

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

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.**§46A-3-112. Delinquency charges on precomputed consumer credit sales or consumer loans.**

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

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

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

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

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

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

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

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-113. Delinquency charges on nonprecomputed consumer credit sales or consumer loans repayable in installments.

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

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

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

The bill was ordered to third reading.

Com. Sub. for S. B. 350, Allowing licensed professional counselors be issued temporary permit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates; 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, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

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

ARTICLE 9. WEST VIRGINIA REAL ESTATE TIMESHARING ACT.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The time and place of sale;

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

(3) The date of the deed;

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

(5) The terms of sale;

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

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

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

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

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

(c) At least thirty days prior to the date of the trustee sale, the notice of trustee sale shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the county where the property is located.

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

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

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

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

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

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

The bill was ordered to third reading.

S. B. 364, Incorporating changes to Streamlined Sales and Use Tax Agreement; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 365, Maintaining solvency of Unemployment Compensation Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was placed at the foot of the calendar.

S. B. 392, Relating to Municipal Police Officers and Firefighters Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 495, Relating to regulation of events by State Athletic Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor's office; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 563, Relating to Consumer Credit and Protection Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 564, Relating to Statewide Independent Living Council; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page seven, section six, line ninety-seven, by striking out the words "to pay reasonable compensation to a member of the council".

And,

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

The bill was ordered to third reading.

S. B. 566, Claims against state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 581, Relating generally to administration of trusts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page nine, section ten, line thirty-one, after the word "code", by inserting a comma and the words "\$1 to the county 911 center" and a comma.

And,

On page nine, section ten, line thirty-two, by striking out the dollar sign and the numeral "3" and inserting in lieu thereof a dollar sign and the numeral "2".

The bill was ordered to third reading.

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 671, Relating to WV Anatomical Board; 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. 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel,

Com. Sub. for S. B. 303, Supplemental appropriation of public moneys from Treasury to DHHR,

Com. Sub. for S. B. 305, Supplemental appropriation of public moneys from Treasury to Fire Commission,

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register,

And,

S. B. 493, Providing increase in compensation for conservation officers.

At 1:29 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:00 p.m.

Afternoon Session

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

Messages from the Senate

A message from the Senate, by

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

H. C. R. 26 - Urging Congress and NASA to name the NASA IV & V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson.

A message from the Senate, by

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

H. C. R. 94 - Proclaiming and making August 26 of each year to be Katherine Johnson Day celebrating her many NASA achievements in establishing the United States as the premier explorer of outer space, including the moon landing and the NASA Shuttle, and as the recipient of the nation's highest civilian honor, the Presidential Medal of Freedom.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools.

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 Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 339, Creating Legislative Coalition on Chronic Pain Management.

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

Delegate Ellington, Chair of the Committee on Health and Human Resources submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 360, Creating Legislative Coalition on Diabetes Management,

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 Government Organization be dispensed with.

In the absence of objection, reference of the bill (S. B. 360) to the Committee on Government Organization was abrogated.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH,

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

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules.

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 338, Relating to medical professional liability.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 484, Relating generally to taxation,

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

Delegate Sponaugle arose to a point of order questioning whether Com. Sub. for S. B. 484 was properly reported from the Committee on Finance.

Mr. Speaker, Mr. Armstead, replied that the report from the Committee on Finance indicated that the bill was reported back, with amendment, with the recommendation that it do pass, as amended.

The report was received.

Second Reading

-continued-

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on second reading, having been placed at the foot of the calendar in earlier proceedings, was read a second time.

Delegate Cowles asked and obtained unanimous consent that the two strike and insert amendments be explained, with the understanding that adoption of the first amendment would preclude consideration of the other, and further, that amendments to an adopted strike and insert amendment be allowed after adoption of the strike and insert amendment.

An amendment, offered by Delegates Shott and Zatezalo, on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following, was reported by the Clerk:

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

CHAPTER 16A. MEDICAL CANNABIS ACT

ARTICLE 1. SHORT TITLE

§16A-1-1. Short title

This chapter shall be known and cited as the West Virginia Medical Cannabis Act.

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

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

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

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

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

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

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

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

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

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

(9) 'Controlling interest' means:

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

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

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

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

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

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

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

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

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

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

(18) 'Individual dose' means a single measure of medical cannabis.

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

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

(21) 'Patient' means an individual who:

(A) has a serious medical condition;

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

(C) is a resident of this state.

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

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

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

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

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

(27) 'Processor' means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau

under this act to process medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(28) 'Registry' means the registry established by the bureau for practitioners.

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

(A) Cancer.

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

(C) Amyotrophic lateral sclerosis.

(D) Parkinson's disease.

(E) Multiple sclerosis.

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

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington's disease.

(J) Crohn's disease.

(K) Post-traumatic stress disorder.

(L) Intractable seizures.

(M) Sickle cell anemia.

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

(O) Terminally ill.

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

ARTICLE 3. MEDICAL CANNABIS PROGRAM

§16A-3-1. Establishment of program.

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

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

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

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

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

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

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

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

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

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

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

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

(A) The State Board of Medicine.

(B) The State Board of Pharmacy.

(C) The State Board of Nursing.

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

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

(B) Proper handling of medical cannabis and recordkeeping.

(C) Any other subject required by the bureau.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Medical cannabis may only be dispensed to:

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

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

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

- (A) pill;
- (B) oil;
- (C) topical forms, including gels, creams or ointments;

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

- (E) tincture;
- (F) liquid; or
- (G) dermal patch.

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

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

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

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

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

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

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

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

(b) It shall be unlawful to:

(1) Smoke medical cannabis.

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

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

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

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

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

§16A-3-4. Confidentiality

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

- (1) Individual identifying information about patients and caregivers.
- (2) Certifications issued by practitioners.
- (3) Information on identification cards.
- (4) Information provided by the West Virginia State Police under section two, article five of this chapter.
- (5) Information relating to the patient's serious medical condition.

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

- (1) Applications for permits submitted by medical cannabis organizations.
- (2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this State. All other practitioner registration information shall be confidential and exempt from public disclosure under the Freedom of Information Act.
- (3) Information relating to penalties or other disciplinary actions taken against a medical cannabis organization or practitioner by the bureau for violation of this act.

ARTICLE 4. PRACTITIONERS.

§16A-4-1. Registration.

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

- (1) A physician must apply for registration in the form and manner required by the bureau.
- (2) The bureau must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the bureau.
- (3) The physician must have successfully completed the course under subsection (a), section one, article three of this chapter.

(b) *Bureau action.*—

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

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

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

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

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

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

(3) The patient has died.

§16A-4-2. Practitioner restrictions.

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

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

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

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

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

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

§16A-4-3. Issuance of certification

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

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

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

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

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

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

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

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

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

(4) The date of issuance.

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

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

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

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

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

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

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

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

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

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

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

(1) Provide the certification to the patient.

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

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

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

§16A-4-4. Certification form

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

§16A-4-5. Duration

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

ARTICLE 5. PATIENTS

§16A-5-1. Identification cards

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

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

(1) Review and approval of applications for identification cards.

(2) Issuance of identification cards to patients and caregivers.

(3) Review of the certification submitted by the practitioner and the patient.

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

- (1) The name, address and date of birth of the patient.
- (2) The name, address and date of birth of a caregiver.
- (3) The certification issued by the practitioner.

(4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of subsection (a), section three, article four of this chapter have been met.

(5) A \$50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship.

- (6) The signature of the applicant and date signed.
- (7) Other information required by the bureau.

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

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

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

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

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

§16A-5-2. Caregivers.

(a) *Requirements.*—

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

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

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

(C) Other information required by the bureau.

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

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

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

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

§16A-5-3. Notice.

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

§16A-5-4. Verification

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

§16A-5-5. Special conditions.

The following apply:

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

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

§16A-5-6. Minors

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

(1) The patient shall have a caregiver.

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

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

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

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

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

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

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

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

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

An identification card shall contain the following:

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

(2) The date of issuance and expiration date.

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

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

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

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

§16A-5-9. Suspension.

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

§16A-5-10. Prohibitions

(a) The following prohibitions shall apply:

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

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

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

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

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

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

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

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS

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

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

(1) Growers.

(2) Processors.

(2) Dispensaries.

§16A-6-2. Permits.

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

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

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

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

(4) A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the West Virginia

State Police for the purpose of obtaining criminal history record checks and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers, operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal, financial backer, operator and employee under this act. This subdivision shall not apply to an owner of securities in a publicly traded corporation if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization.

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

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

(7) A statement that the applicant:

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

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

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

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

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

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

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

(9) Any other information the bureau may require.

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

§16A-6-3. Granting of permit.

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

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

§16A-6-4. Notice.

When the boundaries under subsection (d), section three of this article are established, the bureau shall publish notice of the determination in the State Register. The bureau may adjust the boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the State Register.

§16A-6-5. Application and issuance.

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

(1) Report to the bureau any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the medical cannabis organization.

(2) Report to law enforcement, within 24 hours, any loss or theft of medical cannabis.

(3) Submit to announced or unannounced inspections by the bureau of the facilities for growing, processing, dispensing or selling medical cannabis, including all records of the organization.

(b) *Additional information.*—If the bureau is not satisfied that the applicant should be issued a permit, the bureau shall notify the applicant in writing of the factors for which further documentation is required. Within 30 days of the receipt of the notification, the applicant may submit additional material to the bureau.

§16A-6-6. Fees and other requirements.

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$10,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$100,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$10,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$25,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$5,000 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this State or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

§16A-6-7. Issuance.

A permit issued by the bureau to a medical cannabis organization shall be effective only for that organization and shall specify the following:

(1) The name and address of the medical cannabis organization.

(2) The activities of the medical cannabis organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical cannabis organization.

(4) Any other information required by the bureau.

§16A-6-8. Relocation.

The bureau may approve an application from a medical cannabis organization to relocate within this State or to add or delete activities or facilities.

§16A-6-9. Terms of permit.

A permit issued by the bureau shall be valid for one year from the date of issuance.

§16A-6-10. Permit renewals.

(a) *Renewal.*—An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical cannabis organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(A) any incident involving the theft, loss or possible diversion of medical cannabis grown, processed or dispensed by the applicant; and

(B) compliance by the applicant with the laws of this State with respect to any substance listed under article two of chapter sixty-a.

(b) *Approval.*—The bureau shall renew a permit unless the bureau determines that:

(1) The applicant is unlikely to maintain or be able to maintain effective control against diversion of medical cannabis.

(2) The applicant is unlikely to comply with all laws of this State applicable to the activities in which it may engage under the permit.

(c) *Nonrenewal decision.*—The denial or nonrenewal shall specify in detail how the applicant has not satisfied the bureau's requirements for renewal. Within 30 days of the bureau's decision, the applicant may submit additional material to the bureau or demand a hearing, or both. If a hearing is demanded, the bureau shall fix a date as soon as practicable.

§16A-6-11. Suspension or revocation.

The bureau may suspend or revoke a medical cannabis organization permit if:

(1) The bureau has evidence that the medical cannabis organization has failed to maintain effective control against diversion of medical cannabis.

(2) The organization violates any provision of this act or a rule of the bureau.

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this State relating to medical cannabis.

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under article fourteen of this chapter, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances, or conspiracy thereof:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, shall be in the discretion of the bureau.

§16A-6-13. Limitations on permits.

(a) The following limitations apply to approval of permits for growers, processors and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau may not issue permits to more than 5 growers

(2) The bureau may not issue permits to more than 5 processors.

(3) The bureau may not issue permits to more than 15 dispensaries, with no more than 5 in any region.

(4) The bureau may not issue more than two individual dispensary permits to one person.

(5) The bureau may not issue more than one individual grower permit to one person.

(6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

(9) A grower or a processor may not be a dispensary.

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the Board of Health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the County has not voted, pursuant to section six, article seven of this chapter to disapprove a medical cannabis organization to be located or operate within the county.

ARTICLE 7. MEDICAL CANNABIS CONTROLS

§16A-7-1. Electronic tracking.

(a) *Requirement.*—A medical cannabis organization must implement an electronic inventory tracking system which shall be directly accessible to the bureau through its electronic database that electronically tracks all medical cannabis on a daily basis. The system shall include tracking of all of the following:

(1) For a grower or processor, a seed-to-sale tracking system that tracks the medical cannabis from seed to plant until the medical cannabis is sold to a dispensary.

(2) For a dispensary, medical cannabis from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a medical cannabis organization, a daily log of each day's beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking system shall include prices paid and amounts collected from patients and caregivers.

(4) For a medical cannabis organization, a system for recall of defective medical cannabis.

(5) For a medical cannabis organization, a system to track the plant waste resulting from the growth of medical cannabis or other disposal, including the name and address of any disposal service.

(b) *Additional requirements.*—In addition to the information under subsection (a) of this section, each medical cannabis organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical cannabis.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) *Access.*—(1) Information maintained in electronic tracking systems under subsection (a) of this section shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code.

(2) Pursuant to conditions and procedures established by the bureau, law enforcement shall be provided access to the tracking system.

(d) *Reports.*—Within one year of the issuance of the first permit to a medical cannabis organization, and every three months thereafter in a form and manner prescribed by the bureau, the following information shall be provided to the bureau, which shall compile the information and post it on the bureau's publicly accessible Internet website:

(1) The amount of medical cannabis sold by a grower and a processor during each three-month period.

(2) The price of amounts of medical cannabis sold by growers and processors as determined by the bureau.

(3) The amount of medical cannabis purchased by each dispensary in this State.

(4) The cost of amounts of medical cannabis to each dispensary in amounts as determined by the bureau.

(5) The total amount and dollar value of medical cannabis sold by each dispensary in the three-month period.

§16A-7-2. Grower/processors.

(a) *Authorization.*—Subject to subsection (b), a grower or processor may do all of the following in accordance with bureau rules:

(1) Obtain seed from outside this State to initially grow medical cannabis.

(2) Obtain seed and plant material from another grower/processor within this State to grow medical cannabis.

(b) *Limitations.*— A grower or processor may only grow, store, harvest or process medical cannabis in an indoor, enclosed, secure facility which:

(1) includes electronic locking systems, electronic surveillance and other features required by the bureau; and

(2) is located within this State.

§16A-7-3. Storage and transportation.

The bureau shall develop rules relating to the storage and transportation of medical cannabis among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system developed by the bureau shall include all transportation and storage of medical cannabis. The rules shall provide for the following:

- (1) Requirements relating to shipping containers and packaging.
- (2) The manner in which trucks, vans, trailers or other carriers will be secured.
- (3) Security systems that include a numbered seal on the trailer.
- (4) Obtaining copies of drivers' licenses and registrations and other information related to security and tracking.
- (5) Use of GPS systems.
- (6) Number of drivers or other security required to ensure against storage or in-transit losses.
- (7) Recordkeeping for delivery and receipt of medical cannabis products.
- (8) Requirements to utilize any electronic tracking system required by the bureau.
- (9) Transporting medical cannabis to a grower/processor, approved laboratory or dispensary.

§16A-7-4. Laboratory.

A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

§16A-7-5. Prices.

The bureau and the Bureau of Revenue shall monitor the price of medical cannabis sold by growers, processors and by dispensaries, including a per-dose price. If the bureau and the Bureau of Revenue determine that the prices are unreasonable or excessive, the bureau may implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Bureau of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

§16A-7-6. County prohibition.

A county may pass an ordinance or general law by vote of the residents of the county to prohibit the operation or location of a medical cannabis organization within that particular county. A prohibition under this section shall remain in effect unless and until changed by a subsequent vote.

ARTICLE 8. DISPENSARIES

§16A-8-1. Dispensing to patients and caregivers

(a) General rule.—A dispensary that has been issued a permit under article six of this chapter may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

- (1) The name, address and any identification number assigned to the dispensary by the bureau.

(2) The name and address of the patient and caregiver.

(3) The date the medical cannabis was dispensed.

(4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

(b) *Requirements.*—A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph, successfully complete the course established in subsection (a), section one, article three of this chapter. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at the dispensary.

(c) *Filing with bureau.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(d) *Limitations.*—No dispensary may dispense to a patient or caregiver:

(1) a quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) a form of medical cannabis prohibited by this act.

(e) *Supply.*—When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to section five, article four of this chapter.

(f) *Verification.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) of this section by consulting the electronic tracking system included in the bureau's electronic database established under section one, article three of this chapter and the dispensary tracking system under section one, article seven of this chapter.

(g) *Form of medical cannabis.*—Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

(h) *Safety insert.*—When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Any other information as determined by the bureau.

(i) *Sealed and labeled package.*—Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed and properly labeled package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

‘This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant’s pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.’

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

§16A-8-2. Facility requirements.

(a) General rule.—

(1) A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this State, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) *Adjustment or waiver of prohibition.*—The bureau may amend a prohibition under subsection (a)(3) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

§16A-8-3. Posting.

A dispensary shall post a copy of its permit in a location within its facility in a manner that is easily observable by patients, caregivers, law enforcement officers and agents of the bureau.

ARTICLE 9. TAX ON MEDICAL CANNABIS**§16A-9-1. Tax on medical cannabis**

(a) *Tax imposed.*—A tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, to be paid by the grower/processor, at the rate of 10%. The tax shall be charged against and be paid by the grower/processor and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price paid by a dispensary, patient or caregiver.

(b) *Payment of tax and reports.*— A grower/processor shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of January, April, July and October for the preceding calendar quarter on a form prescribed by the Bureau of Revenue.

(c) *Deposit of proceeds.*—All money received from the tax imposed under subsection (a) shall be deposited into the fund.

(d) *Exemption.*—Medical cannabis shall not be subject to a sales tax.

(e) *Information.*—A grower/processor that sells medical cannabis shall provide to the Bureau of Revenue information required by the bureau.

§16A-9-2. Medical Cannabis Program Fund.

(a) *Fund established.*—The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) *Source of funds.*—Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) *Use of proceeds.*— Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.

ARTICLE 10. ADMINISTRATION

§16A-10-1. Administration

The Commissioner of the Bureau of Public Health may establish and create an Office of Medical Cannabis within the Bureau to assist in the administration and enforcement of the provisions of this act.

§16A-10-2. Reports by medical cannabis organizations.

A medical cannabis organization shall periodically file reports related to its activities. The bureau shall determine the information required in and the frequency of filing the reports.

§16A-10-3. Law enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the bureau may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this act. In addition, the bureau shall verify to law enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.

§16A-10-4. Evaluation.

The bureau may provide for an analysis and evaluation of the implementation and effectiveness of this act. The bureau may enter into agreements with one or more persons for the performance of an evaluation of the implementation and effectiveness of this act.

§16A-10-5. Report.

(a) *Report required.*—The bureau shall submit a written report under subsection (b) of this section every two years, beginning two years after the effective date of this section, to the following:

- (1) The Governor.
- (2) The Joint Committee on Government and Finance.
- (3) The Attorney General of the State.

(b) *Contents of report.*—The following information shall be included in the report:

- (1) An assessment of the use of medical cannabis as a result of the enactment of this act.
- (2) An assessment of the benefits and risks to patients using medical cannabis under this act, including adverse events.
- (3) Recommendations for amendments to this act for reasons of patient safety or to aid the general welfare of the citizens of this State.

§16A-10-6. Emergency rules.

(a) *Promulgation*—In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) *Expiration*—The bureau's authority to adopt emergency rules under subsection (a) of this section shall expire two years after the effective date of this section. Rules adopted after this period shall be promulgated as provided by law.

(c) *Publication*—The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD**§16A-11-1. Advisory board.**

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) One physician licensed to practice in the state, to be appointed by the State Medical Association.

(4) One physician licensed to practice in the state, to be appointed by the Governor.

(5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(9) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(10) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) *Terms*.—Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) *Chair*.—The commissioner, or a designee, shall serve as chair of the advisory board.

(d) *Voting; quorum.*— A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) *Attendance.*—A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) *Governance.*—The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) *Initial terms.*—The initial terms of members appointed under shall be for terms of one, two, three or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) *Vacancy.*—In the event that any member appointed under subsection (a) of this section shall die or resign or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) *Expenses.*—A member shall receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the duties of the member in accordance with State rules, but shall receive no other compensation for the member's service on the board.

(j) *Duties.*—The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this State.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue two years after the effective date of this section a written report to the Governor, the Senate and the House of Delegates

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add or reduce the number of growers, processors or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

§16A-11-2. Rules based on recommendations of advisory board.

After receiving the report of the advisory board, at the discretion of the commissioner, the bureau may promulgate rules to effectuate recommendations made by the advisory board. The commissioner shall issue notice in the State Register within 12 months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the commissioner on whether or not to effectuate each recommendation.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS

§16A-12-1. Criminal diversion of medical cannabis by practitioners.

In addition to any other penalty provided by law, a practitioner who intentionally and knowingly certifies a person as being able to lawfully receive medical cannabis or who otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-2. Criminal diversion of medical cannabis.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, 'qualifying entity' shall mean:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) A laboratory utilized to test medical cannabis under section four, article seven of this chapter.

§16A-12-3. Criminal retention of medical cannabis.

In addition to any other penalty provided by law, any patient or caregiver who intentionally and knowingly possesses, stores or maintains an amount of medical cannabis in excess of the amount legally permitted is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than six months.

§16A-12-4. Criminal diversion of medical cannabis by patient or caregiver.

In addition to any other penalty provided by law, any patient or caregiver that intentionally and knowingly provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-5. Falsification of identification cards.

In addition to any other penalty provided by law, any person who commits one of the following, knowing he or she is not privileged to hold an identification card,

(1) possesses an identification card and either attempts to use the card to obtain medical cannabis or obtains medical cannabis;

(2) possesses an identification card which falsely identifies the person as being lawfully entitled to receive medical cannabis and either attempts to use the card to obtain medical cannabis or obtains medical cannabis; or

(3) possesses an identification card which contains any false information on the card and the person either attempts to use the card to obtain medical cannabis or obtains medical cannabis, is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than twelve months.

§16A-12-6. Adulteration of medical cannabis.

In addition to any other penalty provided by law, any person who adulterates, fortifies, contaminates or changes the character or purity of medical cannabis from that set forth on the patient's or caregiver's identification card, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-7. Disclosure of information prohibited.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal who discloses, except to authorized persons for official governmental or health care purposes, any information related to the use of medical cannabis:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) An employee of the bureau.

(b) *Exception.*—Subsection (a) of this section shall not apply where disclosure is permitted or required by law or by court order.

§16A-12-8. Additional penalties.

(a) *Civil penalties*—In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than \$10,000 for each violation and an additional penalty of not more than \$1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation.

(B) The potential harm resulting from the violation to patients, caregivers or the general public.

(C) The willfulness of the violation.

(D) Previous violations, if any, by the person being assessed.

(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a rule promulgated under this act or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) *Sanctions*.—

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration.

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

(E) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) *Costs of action.*—The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) *Minor violations.*—Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

§16A-12-9. Other restrictions.

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using medical cannabis in a State correctional facility or regional jail authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the regional jail authority, which houses inmates serving a portion of their sentences on parole or other community correction program.

(3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit utilized for sexually violent delinquent children.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

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

(1) ‘Health care medical cannabis organization.’ A vertically integrated health system approved by the bureau to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under this chapter.

(2) ‘Vertically integrated health system.’ A health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.

§16A-13-2. Establishment of medical cannabis research program.

(a) *Program to be established.*—The bureau shall establish and develop a research program to study the impact of medical cannabis on the treatment and symptom management of serious medical conditions. The program shall not include a clinical registrant or academic clinical research center under article fourteen of this chapter.

(b) *Bureau duties.*—The bureau shall:

(1) Review all serious medical conditions which are cited by a practitioner upon the practitioner's certification that a patient be granted an identification card.

(2) Create a database of all serious medical conditions, including comorbidities, which are cited by practitioners in the certifications of patients. The database shall also include the form of medical cannabis certified to treat each serious medical condition.

(3) When the database contains 25 or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical cannabis on the condition.

(4) Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration, publicly announce the formation of a research study to which a vertically integrated health system and a university within this State may submit a request to participate.

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to conduct the research study and designate the form or forms of medical cannabis which will be used to treat the serious medical condition.

(6) Notify a patient who has been issued an identification card:

(A) that the patient has been selected to participate, at the patient's option, in a research study to study medical cannabis as a treatment; and

(B) where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c).

(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration for a research study on the same condition.

(c) *Costs.*—The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) *Geographic accessibility.*—The bureau shall take into consideration the geographic location of the health care medical cannabis organization when assigning a patient to a health care medical cannabis organization. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within 50 miles of the patient's residence.

(e) *Data.*—Data collected by the health care medical cannabis organization shall be provided to the university participating in the research study for analysis.

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage universities within this State to participate in the collection, collation, analysis and

conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by health care medical cannabis organizations with respect to:

- (1) Real time inventory tracking.
- (2) Real time tracking of the medical cannabis dispensed.
- (3) Recall of defective medical cannabis.

(b) Request for distributions.—The bureau shall establish a form and procedure for universities selected to participate in a research study to request distributions from the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

- (1) The form or forms of medical cannabis to be studied.
- (2) The serious medical condition to be studied.

(c) *Research reports.*—

(1) A vertically integrated health system shall report on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects.

(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration's and the United States Drug Enforcement Administration's approval for the research study.

(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau and made publicly available within 180 days of the initiation of a research study for a specific serious medical condition.

(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter.

§16A-13-4. Approval.

A vertically integrated health system located in this State may petition the bureau to participate in a research study to study a serious medical condition. Approval of the vertically integrated health system as a health care medical cannabis organization by the bureau shall authorize access within a region under subsection (d), section three, article six of this chapter to medical cannabis for all patients included in an approved research study.

§16A-13-5. Requirements.

(a) *Dispensing.*—A health care medical cannabis organization that dispenses medical cannabis shall:

- (1) Maintain licensure with the bureau.

(2) Secure the medical cannabis within the associated pharmacies of the health care medical cannabis organization in a manner and method prescribed by the bureau.

(3) Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis.

(4) Report the utilization rates of those patients participating in the research of medical cannabis and treatment options.

(5) Only dispense medical cannabis received from a grower, processor or a health care medical cannabis organization that is approved to grow and process medical cannabis.

(6) Provide all patients or caregivers with the safety insert, prepared by the bureau, which includes potential dangers, recognition and correction of problematic dosage and any other information required by the bureau or which the bureau deems relevant for patient safety.

(b) *Growing and processing.*—A health care medical cannabis organization that grows and processes medical cannabis shall:

(1) Maintain licensure with the bureau

(2) Only make available medical cannabis to health care medical cannabis organizations that dispense medical cannabis.

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.

§16A-13-6. Restrictions.

A health care medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.

§16A-13-7. Rules.

The bureau shall, by rule, establish the procedure to be used by a health care medical cannabis organization that grows and processes medical cannabis with respect to:

(1) Real time inventory tracking, including a seed-to-dispensing tracking system that tracks medical cannabis from seed or immature plant stage until the medical cannabis is provided to a patient in a research study.

(2) Security, recordkeeping, record retention and surveillance systems relating to every stage of growing and processing medical cannabis.

(3) A daily log of each day's beginning inventory, acquisitions, disbursements, disposals and ending inventory.

(4) A system to recall defective medical cannabis.

(5) A system to track the plant waste resulting from the growth of medical cannabis.

(6) Testing of medical cannabis by an independent laboratory to test the medical cannabis produced by the health care medical cannabis organization, including requiring a test at harvest and a test at final processing.

(7) Any other procedure deemed necessary by the bureau.

§16A-13-8. Nonentitlement.

Nothing in this chapter shall be construed to create an entitlement or right of a patient to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS

§16A-14-1. Definitions.

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

(1) 'Academic clinical research center' means an accredited medical school within this State that operates or partners with an acute care hospital licensed within this State.

(2) 'Clinical registrant' means an entity that:

(A) holds a permit as a grower, processor and a dispensary; and

(B) has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

§16A-14-2. Clinical registrants.

Notwithstanding the limitations in section thirteen, article six of this chapter, the bureau may register up to four clinical registrants, and subject to the following:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor and a dispensary,

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical cannabis.

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

(i) The reason for the research project, including the reason for the trial.

(ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study.

(iii) The anticipated duration of the study.

(iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.

(v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.

(2) The academic clinical research center shall provide its findings to the bureau within 365 days of the conclusion of the research study or within 365 days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

ARTICLE 15. MISCELLANEOUS PROVISIONS

§16A-15-1. Conflict.

The growth, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of medical cannabis permitted under this act shall not be deemed to be a violation of the provisions of the Uniform Controlled Substance Act under chapter sixty-a. If a provision of Uniform Controlled Substance Act under chapter sixty-a relating to cannabis conflicts with a provision of this act, this act shall take precedence.

§16A-15-2. Financial and employment interests.

(a) *Financial interests.*—Except as may be provided for the judiciary by rule or order of the West Virginia Supreme Court, an executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(b) *Employment.*—Except as may be provided by rule or order of the West Virginia Supreme Court, no executive-level public employee, public official or party officer, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

§16A-15-3. Insurers.

Nothing in this act shall be construed to require an insurer or a health plan, whether paid for by State funds or private funds, to provide coverage for medical cannabis.

§16A-15-4. Protections for patients and caregivers.

(a) *Licensure.*—None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a State licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

(1) A patient.

(2) A caregiver.

(3) A practitioner.

(4) A medical cannabis organization.

(5) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(6) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(7) An employee, principal or financial backer of a medical cannabis organization.

(8) An employee of a health care medical cannabis organization or an employee of a university participating in a research study under article thirteen of this chapter.

(9) An employee of a clinical registrant or an employee of an academic clinical research center under article fourteen of this chapter.

(b) *Employment.*—

(1) No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location or privileges solely on the basis of such employee's status as an individual who is certified to use medical cannabis.

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act shall in no way limit an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee's conduct falls below the standard of care normally accepted for that position.

(3) Nothing in this act shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of Federal law.

§16A-15-5. Schools.

The Bureau of Education shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a student on the grounds of a preschool, primary school and a secondary school.

(2) Possession and use of medical cannabis by an employee of a preschool, primary school and a secondary school on the grounds of such school.

§16A-15-6. Day-care centers.

The Bureau shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a child under the care of a child-care or social service center licensed or operated by the Bureau of Human Services.

(2) Possession and use of medical cannabis by an employee of a child-care or social service center licensed or operated by the Bureau of Human Services.

(3) Possession and use of medical cannabis by employees of a youth development center or other facility which houses children adjudicated delinquent.

§16A-15-7. Zoning.

The following apply:

(1) A grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

(2) A dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district.

(3) A municipality may enact an ordinance prohibiting or limiting the number and type of medical cannabis organizations permitted to operate in the municipality, including the time, place, and manner of operation.

§16A-15-8. Notice to bureau.

(a) A municipality that enacts a restrictive ordinance pursuant to section seven of this article, shall promptly notify the bureau of such action

(b) A county commission shall notify the bureau if a county votes to prohibit allowance of a medical cannabis organization pursuant to section six, article seven of this chapter

§16A-15-9. Applicability.

The issuance of permits and other authorizations shall begin upon publication of a notice by the bureau in the State Register that adequate emergency or permanent rules have been adopted to initiate the program under this act.

ARTICLE 16. EFFECTIVE DATE.

§16A-16-1. Effective date

(a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective upon passage.

(b) The provisions of article twelve of this chapter, and any other criminal provisions or penalties contained in this act, shall not be effective until ninety days from passage of Senate Bill 386 during the 2017 Regular Session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.”

An amendment, offered by Delegates Pushkin, Hornbuckle, Byrd, Hill, McGeehan, Lane and Robinson, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following, was reported by the Clerk:

“That the Code of West Virginia, 1931, as amended, be 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, §16-8A-17, §16-8A-18, and §16-8A-19, all to read as follows:

ARTICLE 8A. THE PATIENT FREEDOM ACT.

§16-8A-1. Definitions.

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

(1) ‘Bona fide practitioner-patient relationship’ means:

(A) a practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient’s medical history and current medical condition, including an appropriate examination;

(B) the practitioner has consulted with the patient with respect to the patient’s debilitating medical condition; and

(C) the practitioner is available to or offers to provide follow-up care and treatment to the patient;

(2) ‘Caregiver’ means:

(A) A person who has agreed to assist with a qualifying patient’s medical use of cannabis; and

(B) For a qualifying patient under the age of eighteen years, a parent or legal guardian.

(3) ‘Certifying physician’ means an individual who:

(A) Has an active, unrestricted license to practice medicine that was issued by the West Virginia Board of Medicine or the West Virginia Board of Osteopathic Medicine;

(B) Is in good standing with the West Virginia Board of Medicine or the West Virginia Board of Osteopathic Medicine, whichever is applicable;

(C) Has a valid and unencumbered authority to prescribe controlled substances; and

(D) Is registered with the commission to make cannabis available to patients for medical use in accordance with regulations adopted by the commission;

(4) 'Commission' means the West Virginia Medical Cannabis Commission established pursuant to this article;

(5) 'Dispensary' means an entity licensed under this article that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver;

(6) 'Dispensary agent' means an owner, a member, an employee, a volunteer, an officer, or a director of a dispensary;

(7) 'Fund' means the West Virginia Medical Cannabis Commission Fund established pursuant to this article.

(8) 'Grower' means an entity licensed under this article that cultivates, manufactures, packages, and is authorized by the commission to provide cannabis to a qualifying processor, dispensary, or independent testing laboratory;

(9) 'Independent testing laboratory' means a facility, entity, or site that offers or performs tests related to the inspection and testing of cannabis and products containing cannabis;

(10) 'Mature cannabis plant' means a cannabis plant that has flowered and has buds that may be observed by visual examination;

(11) 'Medical cannabis' means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is lawfully sold pursuant to this article.

(12) 'Medical cannabis grower agent' means an owner, an employee, a volunteer, an officer, or a director of a grower;

(13) 'Medical cannabis processor' or 'processor' means an entity that transforms medical cannabis into another product or extract; and packages and labels medical cannabis products;

(14) 'Processor agent' means an owner, member, employee, volunteer, officer, or director of a processor;

(15) 'Qualifying patient' means an individual who has been provided with a written certification by a certifying physician in accordance with a bona fide physician-patient relationship; and if under the age of eighteen years, has a caregiver;

(16) 'Written certification' means a certification that is written on tamper-resistant, non-copyable paper and issued by a certifying physician to a qualifying patient with whom the physician has a bona fide physician-patient relationship and includes a written statement certifying that, in the physician's professional opinion, after having completed an assessment of the patient's medical history and current medical condition, the patient has a condition:

(A) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying physician's application; and

(B) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient.

§16-8A-2. West Virginia Medical Cannabis Commission.

(a) There is hereby created the West Virginia Medical Cannabis Commission.

(b) The commission is an independent commission that functions within the Department of Health and Human Resources.

(c) The purpose of the commission is to develop policies, procedures, guidelines, and rules to implement programs and to regulate and enforce all activities associated with making medical cannabis available to qualifying patients in a safe and effective manner.

(d) The commission shall employ an executive director and employ persons necessary to administer and enforce the requirements of this article and rules promulgated thereunder. The executive director shall have enforcement authority and may delegate lawful enforcement duties to employees of the commission.

(e) The commission shall develop identification cards for qualifying patients and caregivers, and shall provide identification cards to each authorized person. The cards shall ensure identification cards may not be tampered with, duplicated, or altered. Only persons who are residents of this state are eligible to be designated as qualifying patients;

(f) The commission shall develop procedures to distribute and track identification cards.

(g) The commission shall develop and maintain a website that provides information on how an individual can obtain medical cannabis in the state; and provides contact information for licensed dispensaries.

(h) All licensees must be residents of this state and the commission may not issue more than one license to any person or entity for any activity authorized pursuant to this article.

§16-8A-3. Makeup of commission authorization to charge fees and creation of the West Virginia Medical Cannabis Commission Fund.

(a) The commission shall consist of the following members:

(1) The Secretary of the Department of Health and Human Resources, or the secretary's designee;

(2) The Superintendent of the West Virginia State Police or a designee;

(3) One physician licensed to practice in the state, to be appointed by the State Medical Association;

(4) One physician licensed to practice in the state, to be appointed by the Governor;

(5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy;

(6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor;

(7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture;

(8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors;

(9) An attorney licensed in the state who is knowledgeable about medical cannabis laws;

(10) One member appointed by the West Virginia Prosecuting Attorneys Institute;

(11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) The term of appointed members is four years. However, the Governor shall set the terms of the initial members of the commission such that three expire after one year, three expire after two years, and three expire after three years in order to stagger the membership terms of the commission. At the end of an appointed commission member's term, he or she shall continue to serve until a successor is appointed and qualified. An appointed member may not serve more than three consecutive full terms.

(c) The Governor shall designate the chair from among the members of the commission.

(d) A majority of the membership of the commission is a quorum.

(e) A member of the commission may not receive compensation, but shall be entitled to reimbursement for expenses incurred while engaged in the discharge of official duties, not to exceed the amount paid to members of the Legislature.

(f) The commission is authorized, by legislative rule, to establish reasonable fees for licensees to cover the costs of administering the provisions of this article.

(g) All fees collected shall be deposited in a special account in the State Treasury to be known as the 'West Virginia Medical Cannabis Commission Fund' 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 the code: *Provided*, That for the fiscal year ending the thirtieth day of June 2019, expenditures are authorized by collections rather than pursuant to appropriation by the Legislature.

(h) The commission may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article.

§16-8A-4. Excise tax on Grower sales to Dispensaries; retail sales subject to state sales tax.

(a) An excise tax of eight percent of the value of all sales is hereby levied and imposed July 1, 2019, upon the sale by growers of medical cannabis to all processors and dispensaries licensed pursuant to this article. Proceeds shall be distributed as follows:

(1) Fifty percent shall be deposited into the Fight Substance Abuse Fund created by section eight, article nine, Chapter sixty-A of this code;

(2) Forty percent shall be allocated to the Division of Justice and Community Services and expended pursuant to section three, article nine-a, chapter fifteen for grants to local law enforcement agencies for training in and promotion of community relations, patients lawful use of medical cannabis, and other training and programs promoting positive community relations; and

(3) Ten percent of the proceeds shall be transferred to the special account created in section four, article twenty-nine chapter thirty for law enforcement profession training.

(b) A retail sales tax shall be imposed on all medical cannabis products sold by a dispensary pursuant to section three, article five, chapter eleven of this code.

§16-8A-5. Rulemaking.

The commission shall, after consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules and propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article, and thereafter propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code. The Commission shall by December first, two thousand and seventeen, final file legislative rules authorizing the use of cards by patients to purchase cannabis in other states that the Commission has granted reciprocity, and to allow authorized patients to begin growing for lawful consumption. The Legislative Rule-Making and Review Committee shall consider those commission rules for consideration for passage by the 2018 legislative session. The Commission shall also propose for legislative promulgation, legislative rules establishing licensing and permitting of growers, producers and dispensaries for consideration and authorization during the 2019 regular session.

§16-8A-6. Certifying physician's registration.

(a) The commission shall register a certifying physician who meets the requirements of this article and complies with all requirements of this article and any rules promulgated by the commission.

(b) To be registered as a certifying physician, a physician shall submit a proposal to the commission that includes:

(1) The reasons for including a patient under the care of the physician for the purposes of this article, including the patient's qualifying medical conditions;

(2) An attestation that a standard patient evaluation will be completed, including a history, a physical examination, a review of symptoms, and other pertinent medical information and a bona fide practitioner-patient relationship exists; and

(3) The physician's plan for the ongoing assessment and follow-up care of a patient, and for collecting and analyzing data.

(c) The commission may not require an individual to meet requirements in addition to the requirements listed in subsections (a) and (b) of this section to be registered as a certifying physician.

(d) The commission shall consider for approval physician applications for the following medical conditions:

(1) Chronic or debilitating diseases or medical conditions that result in a patient being admitted into Hospice or receiving palliative care; and

(2) Chronic or debilitating diseases or medical conditions or the treatment of chronic or debilitating diseases or medical conditions that produce:

(i) Cachexia, anorexia, or wasting syndrome;

(ii) Severe or chronic pain that does not find effective relief through standard pain medication, or requires extensive use of opioids;

(iii) Seizures; or

(iv) Refractory generalized anxiety disorder.

(3) Medically assisted treatment for opioid addiction.

(4) Post-traumatic stress disorder.

(e) The commission may authorize, by legislative rule, any other condition that for which other medical treatments have been ineffective if the symptoms reasonably can be expected to be relieved by the medical use of cannabis.

(f) A certifying physician or the spouse of a certifying physician may not receive any gifts from or have an ownership interest in a medical cannabis grower, a processor, or a dispensary. A certifying physician may receive compensation from a medical cannabis grower, a processor, or dispensary if the certifying physician:

(1) Obtains the approval of the commission before receiving the compensation; and

(2) Discloses the amount of compensation received from the medical cannabis grower, processor, or dispensary to the commission.

(g) A qualifying patient may be a patient of the certifying physician or may be referred to the certifying physician. A certifying physician shall provide a written certification to the commission for each qualifying patient. On receipt of a written certification provided, the commission shall issue an identification card to each qualifying patient or caregiver named in the written certification. A qualifying patient or caregiver may obtain medical cannabis only from a dispensary licensed by the commission.

(h) A qualifying patient under the age of eighteen years may obtain medical cannabis only through his or her caregiver. A caregiver may serve no more than five qualifying patients at any time. A qualifying patient may have no more than two caregivers.

(i) The commission shall issue physician registration annually and may grant or deny a renewal of a registration for approval based on the physician's performance in complying with rules adopted by the commission.

(j) Certifying physicians shall report all certifications for qualifying patients as set forth in this article to the Controlled Substances Monitoring Database as set forth in article nine, chapter sixty-A of this code.

§16-8A-7. Medical cannabis growers and grower agents.

(a) The commission may license medical cannabis growers that meet all requirements established by the commission to operate in the state to provide cannabis to:

(1) Processors licensed by the commission under this article;

(2) Dispensaries licensed by the commission under this article; and

(3) Independent testing laboratories registered with the commission under this article.

(b) The commission may issue the number of licenses necessary to meet the need for medical cannabis by qualifying patients and caregivers in an affordable, accessible, secure, and efficient manner.

(c) The commission shall establish an application review process for granting medical cannabis grower licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission. If the commission finds sufficient availability, at least ten percent of the licenses granted pursuant to this section shall be to persons participating in a veterans' agriculture program. The commission may not issue more than one medical cannabis grower license to each applicant. A grower shall pay an application fee in an amount to be determined by the commission consistent with this article. The commission shall set standards for licensure as a medical cannabis grower to ensure public safety and safe access to medical cannabis.

(d) Each medical cannabis grower agent shall be registered with the commission before the agent may volunteer or work for a licensed grower; and obtain state and national criminal history records checks in accordance with section twelve of this article.

(e) A licensed grower shall apply to the commission for a registration card for each grower agent by submitting the name, address, and date of birth of the agent. The grower agent shall not enter or participate in any way with the growing operation until registered. Within one business day after a grower agent ceases to be associated with a grower, the grower shall notify the commission and return the grower agent's registration card to the commission. On receipt of the notice, the commission shall immediately revoke the registration card of the grower agent and, if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

(f) The commission may not register a person as a grower agent who has been convicted of a felony drug offense.

(g) A medical cannabis grower license is valid for four years on initial licensure.

(h) A medical cannabis grower license is valid for two years on renewal.

(i) The commission may encourage licensing medical cannabis growers that grow strains of cannabis, including strains with high cannabidiol content, with demonstrated success in alleviating symptoms of specific diseases or conditions.

(j) The commission shall seek to achieve geographic diversity when licensing medical cannabis growers. A grower licensed under this article to operate as a medical cannabis grower shall report annually to the commission regarding geographic diversity and minority ownership and employees of the grower.

(k) Any entity licensed to grow medical cannabis under this section shall ensure that safety precautions established by the commission are followed by any facility operated by the grower. A grower licensed under this section shall allow the commission and its agents to inspect licensed facilities and any other requirements established by rule of the commission.

(l) The commission shall establish requirements for security and the manufacturing process that a grower must meet to obtain a license under this section, including, but not limited to, a requirement for a product-tracking system that tracks cannabis production to ensure that cannabis is not diverted for illegal purposes.

(m) The commission is authorized to impose penalties or rescind the license of a grower that does not meet the standards for licensure set by the commission.

(n) Notwithstanding any provision of law to the contrary, a qualifying patient is exempt from the provisions of this section and may grow and cultivate no more than two mature cannabis plants and two immature plants solely for his or her own use in accordance with the certification from a certifying physician. A qualifying patient remains subject to the prohibitions set forth in section four hundred one, article four, chapter sixty-A of this code for delivery or distribution of any cannabis which is grown and possessed pursuant to this subsection.

§16-8A-8. Dispensaries.

(a) The Commission is hereby authorized to license dispensaries of medical cannabis. To be licensed as a dispensary, an applicant must submit to the commission an application fee in an amount to be determined by rule of the commission and make application for a license, in writing, that includes at a minimum:

(1) The legal name and physical address of the proposed dispensary;

(2) The name, address, and date of birth of each principal officer and each director, none of whom may have served as a principal officer or director for a dispensary that has had its license revoked; and

(3) Operating procedures that the dispensary will use, consistent with commission regulations for oversight, including storage of cannabis and products containing cannabis only in enclosed and locked facilities.

(b) The commission shall establish an application review process for granting dispensary licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission; and actively seek to achieve geographic diversity when licensing dispensaries.

(c) Upon initial issuance, a license to dispense medical cannabis shall be valid for four years. Upon renewal, a dispensary license shall be valid for two years.

(d) A dispensary licensed under this section or a dispensary agent registered under this article may not be prosecuted or penalized under state law for acquiring, possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a qualifying patient or a caregiver in compliance with the provisions of this article.

(e) The commission shall establish requirements for security and product handling procedures that a dispensary must meet to obtain a license under this section, including a requirement for a product-tracking system.

(f) A dispensary licensed under this section shall allow the Commission and its agents to inspect licensed facilities at any time without the necessity of a warrant to ensure compliance with this article.

(g) The commission may impose penalties or rescind the license of a dispensary that does not meet the standards for licensure set by the commission.

(h) Each dispensary licensed under this section shall submit to the commission a quarterly report which shall include:

(1) The number of patients served;

(2) The county of residence of each patient served;

(3) The medical condition for which medical cannabis was recommended;

(4) The type and amount of medical cannabis dispensed; and

(5) If available, a summary of clinical outcomes, including adverse events and any cases of suspected diversion.

(i) The commission may issue licenses necessary to meet the need for medical cannabis by qualifying patients and caregivers by an affordable, accessible, secure and efficient manner.

(j) The quarterly report required by the provisions of subsection (i) of this section shall not include personal identifying information of qualifying patients.

(j) Dispensaries shall report all purchases by qualifying patients as set forth in this article to the Controlled Substances Monitoring Database as set forth in article nine, chapter sixty-A of this code.

(k) An individual who has been convicted of a felony drug offense or a conspiracy to commit such offense may not receive a license pursuant to this section.

(l) Notwithstanding any other provision of this article, receipt of processed medical cannabis by a patient or caregiver from a dispensary may not exceed a thirty day supply of individual doses. During the last seven days of any thirty day period during the term of the identification card, a patient may obtain and possess a thirty day supply for the subsequent thirty day period. Additional thirty day supplies may be provided in accordance for this section for the duration of authorized period of the identification card.

§16-8A-9. Dispensary agents.

(a) A dispensary agent shall be at least twenty-one years old and be registered with the commission before the agent may volunteer or work for a dispensary. Each dispensary agent shall submit to state and national criminal history records check in accordance with section twelve of this article.

(b) A dispensary shall apply to the commission for a registration card for each dispensary agent by submitting the name, address, and date of birth of the agent.

(c) Within one business day after a dispensary agent ceases to be associated with a dispensary, the dispensary shall:

(1) Notify the commission; and

(2) Return the dispensary agent's registration card to the commission.

(d) On receipt of a notice pursuant of this subsection, the commission shall immediately revoke the registration card of the dispensary agent, and if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

§16-8A-10. Processors

(a) The Commission is hereby authorized to license processors of medical cannabis. To be licensed as a processor, an applicant must submit to the commission:

(1) An application fee in an amount to be determined by the commission in accordance with this article; and

(2) An application that includes:

(A) The legal name and physical address of the proposed processor;

(B) The name, address, and date of birth of each principal officer and director, none of whom may have served as a principal officer or director for a licensee under this article that has had its license revoked; and

(C) Operating procedures that the processor will use, consistent with commission regulations for oversight, including storage of cannabis, extracts, and products containing cannabis only in enclosed and locked facilities.

(b) The commission shall establish an application review process for granting processor licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission. The commission shall determine the number of processor licenses to issue based on the need for the product.

(c) Upon initial issuance, a processor license shall be valid for four years. Upon renewal, a processor license shall be valid for two years.

(d) A processor licensed under this section or a processor agent registered pursuant to this article may not be prosecuted or penalized under state law for acquiring, possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a licensee under this article or a qualifying patient or a caregiver in compliance with the provisions of this article.

(e) The commission shall establish requirements for security and product handling procedures that a processor must meet to obtain a license under this section, including a requirement for a product-tracking system that include but are not limited to:

(1) Disclosing the THC content of each product;

(2) Restrictions on packaging to ensure it is not designed to appeal to minors; and

(3) Establishing the amount of THC that may be included in each serving of a marijuana product; and

(4) Health and safety rules and standards for the manufacture of marijuana products, including:

(A) Restrictions or prohibitions on additives to products that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers; and

(B) Safety standards regulating the manufacture of marijuana extracts and concentrates.

(f) A processor licensed under this section shall allow the commission or its agents to inspect licensed facilities at any time without the necessity of a warrant to ensure compliance with this article.

(g) The commission may impose penalties or rescind the license of a processor that does not meet the standards for licensure set by the commission.

(h) An individual who has been convicted of a felony drug offense or a conspiracy to commit such offense may not receive a license pursuant to this section.

§16-8A-11. Processor Agents.

(a) A processor agent shall be at least twenty-one years old and be registered with the commission before the agent may volunteer or work for a processor. Each applicant shall be subject to state and national criminal history records check in accordance with this article.

(b) A processor agent shall apply to the commission for a registration card for each processor agent by submitting the name, address, and date of birth of the agent.

(c) Within one business day after a processor agent ceases to be associated with a processor, the processor shall notify the commission and return the processor agent's registration card to the commission. On receipt of this notice, the commission shall immediately revoke the registration card of the processor agent, and if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

§16-8A-12. Independent Laboratories.

(a) The commission shall register a public criminal justice agency as the primary testing laboratory to test cannabis and products containing cannabis that are to be sold in the state.

(b) The commission may register additional public or private independent testing laboratories to test cannabis and products containing cannabis that are to be sold in the state.

(c) To be registered as a private independent testing laboratory, a laboratory shall:

(1) Meet the application requirements established by the commission;

(2) Pay any applicable fee required by the commission; and

(3) Meet the standards and requirements for accreditation, inspection, and testing established by the commission.

(d) The commission shall adopt regulations that establish:

(1) the standards and requirements to be met by an independent laboratory to obtain a registration;

(2) The standards of care to be followed by all testing laboratories;

(3) The initial and renewal terms for an independent laboratory registration and the renewal procedure; and

(4) The bases and processes for denial, revocation, and suspension of a registration of an independent testing laboratory.

(d) The commission may inspect any independent testing laboratory registered under this section to ensure compliance with this article.

§16-8A-13. Criminal records check.

(a) The commission and the State Police shall enter into a memorandum of understanding regarding criminal records checks that include, at a minimum, the following:

(1) Any applicant is required to submit to the State Police all information necessary to complete a nationwide background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index;

(2) The applicant is required to pay all fees associated with the background checks;

(3) The State Police shall complete the background checks promptly upon receipt of all necessary information and fees; and

(4) The State Police shall forward to the commission and to the applicant the criminal history record information of the applicant forthwith.

(b) Information obtained from the background checks required under this section shall be:

(1) Confidential and may not be disseminated other than as authorized in this section; and

(2) Used only for the registration purpose authorized by this article.

(c) The subject of a criminal history records check under this section may appeal the contents of the printed statement issued, as authorized by relevant criminal history database.

§16-8A-14. Offenses; Exempted behaviors

(a) The following persons when acting in strict compliance with the provisions of this article are not subject to arrest, prosecution, civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for:

(1) A qualifying patient in possession of more than four ounces of cannabis or two immature and two mature cannabis plants grown by the patient.

(2) A grower licensed under section six of this article, or a grower agent registered under section six of this article;

(3) A certifying physician;

(4) A caregiver;

(5) A dispensary licensed or a dispensary agent registered pursuant to this article;

(6) A processor licensed or a processor agent registered pursuant to this article; or

(7) A hospital, medical facility, or hospice program where a qualifying patient is receiving treatment.

(b) Any person who knowingly distributes, possesses with intent to distribute or manufactures cannabis that has been diverted in violation of the provisions of this article from a qualifying patient, caregiver, licensed grower, or licensed dispensary, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$10,000, or both fined and imprisoned.

(c) The offense set forth in this subsection is separate and distinct from other provisions of this code prohibiting the manufacture, possession, or distribution of marijuana under this code.

§16-8A-15. Conduct not protected.

(a) This article may not be construed to authorize any individual to engage in, and does not prohibit the imposition of any civil, criminal, or other penalties for, the following:

(1) Undertaking any task under the influence of marijuana or cannabis, when doing so would constitute negligence or professional malpractice;

(2) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana or cannabis;

(3) Smoking marijuana or cannabis in any public place;

(4) Consuming medical cannabis in any fashion while imprisoned in a state correctional facility or regional jail, or while the patient is on a parole or probation without prior authorization;

(5) Smoking medical cannabis on public or private school or university property;

(6) Smoking medical cannabis in a motor vehicle; or

(7) Except as provided in subsection (b) of this section, smoking or growing marijuana or cannabis on a private property that:

(A) Is rented from a landlord and subject to a contract that prohibits the smoking of marijuana or cannabis on the property; or

(B) Is subject to a policy that prohibits possessing marijuana or cannabis on the property of an attached multi-residence dwelling adopted by the council of unit owners, for entities regulated by chapter thirty-six-a of this code, or the executive board of a unit owner's association, for entities regulated by chapter thirty-six-b of this code.

(b) The provisions of subdivision (5), subsection (a) of this section do not apply to vaporizing cannabis.

(c) This article may not be construed to provide immunity or an affirmative defense to a person who violates the provisions of this article from criminal prosecution for a violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs, or any conspiracy or attempt to commit any of those offenses.

(d) This article may not be construed to require a hospital, medical facility, or hospice program to report to the commission any disciplinary action taken by the hospital, medical facility, or hospice program against a certifying physician, including the revocation of privileges, after the registration of the certifying physician by the commission.

§16-8A-16. State employee actions and federal law

(a) Notwithstanding any provision of this code to the contrary, a state employee who incurs counsel fees in connection with a federal criminal investigation or prosecution solely related to the employee's good faith discharge of public responsibilities under this article is eligible for reimbursement of counsel fees.

(b) The Governor may suspend implementation of this article upon making a formal determination that there is a reasonable chance of federal prosecution of state employees for involvement with implementation of this article.

§16-8A-17. Effective dates; requirements to be met prior to implementation of article.

(a) The provisions of sections four, seven, eight, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen and seventeen of this article shall be effective on July 1, 2019.

(b) The provisions of this article shall not be construed to make lawful or otherwise authorize the growing, manufacturing, distribution, dispensing or possession of cannabis until rules so authorizing in effect.

§16-8A-18. Enactment of Municipal Ordinances.

A municipality may enact an ordinance prohibiting or limiting the number and type of cannabis dispensaries that may be permitted within the municipality, and regulating the time, place, and manner of operation of a marijuana establishment which is permitted within the municipality. A municipality may enact an ordinance specifying the entity within the municipality that shall be responsible for reviewing applications submitted for a registration to operate a cannabis dispensary within the municipality. The entity designated by the municipality shall be responsible for indicating whether the application is in compliance with local ordinances.

§16-8A-19. Reporting requirements.

On or before January thirty-first of each year, the commission shall report to the Governor and the Joint Committee on Government and Finance the commission's activities over the course of the previous year."

Delegate Rowe was addressing the House when Delegate Zatezalo arose to a point of order regarding the content of the remarks of the Delegate.

The Speaker replied and reminded the Member to direct his remarks to the amendments before the House.

On the adoption of the strike and insert amendment offered by Delegates Shott and Zatezalo, the yeas and nays were demanded which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 329**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hill, Hornbuckle, Iaquina, Isner, Lane, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moore, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Wagner, White and Williams.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Delegate Nelson asked and obtained unanimous consent that Com. Sub. for S. B. 484 be recommitted to the Committee on Finance.

At 6:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 8:00 p.m.

* * * * *

Evening Session

* * * * *

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 Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 484, Relating generally to taxation,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 484) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for S. J. R. 6) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2018, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.,

And reports back a committee substitute therefore, the same title, as follows:

Com. Sub. for H. B. 2018 – “A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

Delegate Cowles moved that the bill be taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Cowles asked and obtained unanimous consent that his motion be withdrawn.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 2018) was taken up for immediate consideration, read a first time and ordered to second reading with the right to amend on third reading.

The House then resumed consideration of Com. Sub. for S. B. 386.

Delegates Summers, Hollen and Cooper moved to amend the amendment on page nineteen, section eight, line eleven, by inserting a new subdivision (6) to read as follows:

“(7) A warning that states ‘Any person who uses marijuana, regardless of whether his or her state has passed legislation authorizing marijuana use, is prohibited by Federal law from possessing firearms or ammunition.’”

And renumbering the remaining subdivisions accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 330**), and there were—yeas 22, nays 75, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Anderson, Arvon, Atkinson, Butler, Cooper, Criss, Ellington, Fast, G. Foster, N. Foster, Frich, Gearheart, Hollen, Kessinger, Lewis, Martin, C. Miller, C. Romine, Sobonya, Summers and Sypolt.

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Fast moved to amend the strike and insert amendment on page fifty-six, article sixteen, section one, line one, by deleting the section in its entirety and inserting in lieu thereof the following:

“Notwithstanding any other provision of this Code to the contrary, this Act shall only become effective upon and to the extent the sale, wholesale, distribution and prescribing of cannabis becomes

approved by the Food and Drug Administration and placed on a prescribable schedule by the Drug Enforcement Administration."

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

The yeas and nays having been ordered, they were taken (**Roll No. 331**), and there were—yeas 20, nays 77, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Arvon, Atkinson, Butler, Cooper, Cowles, Criss, Ellington, Fast, G. Foster, Frich, Gearheart, Hollen, Kessinger, Martin, C. Miller, O'Neal, Sobonya, Sypolt and Ward.

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Fast moved to amend the bill on page twenty, section ten, line twenty-eight, immediately following the word "employer", by adding and comma and "or detrimental to the effective operation of the employer's business while".

The Speaker put the question on the adoption of the foregoing amendment to the amendment, and the same did not prevail.

Delegate Fast moved to amend the bill on page thirty-four, section one, line fifty-nine, immediately following the word "machinery", by adding "or to competently discharge a firearm or operate any form of vehicle".

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

The yeas and nays having been ordered, they were taken (**Roll No. 332**), and there were—yeas 16, nays 81, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Anderson, Arvon, Butler, Cooper, Cowles, Criss, Fast, G. Foster, N. Foster, Hollen, Kessinger, Martin, O'Neal, Summers and Sypolt.

Absent and Not Voting: Hanshaw, Love and White.

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

An amendment offered by Delegate Fast was reported by the Clerk on page forty-one, section one, line seventy, immediately following the word "meeting", by inserting a colon and "*Provided*, That no recommended changes of rules under this act shall become effective unless approved by the legislature."

Whereupon,

Delegate Fast asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Folk, the strike and insert amendment was amended, on page thirty-two, section six, line one, by striking out the words "or general law".

An amendment to the strike and insert amendment, offered by Delegate Folk, was reported by the Clerk on page twenty-seven, section thirteen, line three, following the word “growers”, by inserting the following proviso: “*Provided*, That each grower may license up to five additional locations for growing medical cannabis under their permit through a contractual agreement.”

Whereupon,

Delegate Folk asked and obtained unanimous consent that the amendment be withdraw.

Delegates Eldridge and Lane moved to amend the strike and insert on page one, section one, line one, following the word “chapter”, by inserting the words “is in honor of James William ‘Bill’ Flanigan and Lucile Gillespie and”.

On the adoption of the amendment to 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. 333**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Hanshaw, Kessinger, Love, Marcum and White.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

On motion of Delegate Eldridge, the strike and insert amendment was amended on page eleven, following section three, on line nineteen, by inserting a new section, to read as follows:

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

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

On motion of Delegates N. Foster and Rohrbach, the strike and insert amendment was amended, on page thirty-eight, section one, line five, by striking out subdivision (3) and inserting in lieu thereof a new subdivision (3) to read as follows:

“(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

- (A) Family Practice/Neurologist/General Practitioner
- (B) Pain Management
- (C) Oncologist/Palliative Care
- (D) Psychiatrist”

And,

On page thirty-eight, section one, line seven, by striking out subdivision four and renumbering the remaining subdivisions accordingly.

On motion of Delegate Rohrbach, the strike and insert amendment was amended on page thirty-four, section one, line forty-nine, following the word “sealed”, by striking out the word “and” and inserting in lieu thereof a comma;

And,

On page thirty-four, section one, line forty-nine, following the word “labeled”, by inserting “and child-resistant”.

On motion of Delegate Rohrbach, the strike and insert amendment was amended, on page four, section one, line sixty-two, by inserting a new subdivision (23) to read as follows:

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

And,

By renumbering the remaining subdivisions thereafter.

On page six, section one, lines twenty-nine and thirty, by striking out the comma following the word “physician” and striking out the following: “pharmacists, certified registered nurse practitioners and physician assistants”.

On page seven, section one, line thirty-five by striking out the words “of Pharmacy” and inserting in lieu thereof the words “of Osteopathic Medicine”.

On page seven, section one, line thirty-six by striking out paragraph (C) in its entirety.

On page eleven, section one, line nineteen, following the words “Medicine” by inserting the words “and West Virginia Board of Osteopathic Medicine”.

And,

On page twelve, section two, line sixteen, following the “Medicine” by inserting the words “and West Virginia Board of Osteopathic Medicine”.

Delegate Pushkin moved to amend the amendment on page nine, section two, line thirty, following the period, by inserting the following:

“(9) Smoke medical cannabis.”

And,

On page nine, section three, by striking out “(1) Smoke medical cannabis” and the period and renumbering the subsequent subparagraphs accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 334**), and there were—yeas 46, nays 51, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hamrick, Hartman, Hicks, Hill, Hornbuckle, Iaquina, Isner, Lane, Longstreth, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moore, Paynter, Pethel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Williams and Wilson.

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Sobonya moved to amend the strike and insert amendment on page thirty-eight, section six, line seven, by inserting a new subsection (c) to read as follows: "The commission shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this article and shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, subsequently propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code" and a period and renumbering the remaining subsection.

And,

By adding the word "legislative" prior to the words "rule" or "rules" where appropriate throughout the bill.

On the adoption of the amendment to the strike and insert amendment, Delegate Sobonya demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 335**), and there were—yeas 50, nays 47, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Blair, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Cooper, Dean, Diserio, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hicks, Hill, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, McGeehan, Miley, R. Miller, Moore, Moye, Nelson, Paynter, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Upson, Wagner, Walters, Westfall and Williams.

Absent and Not Voting: Hanshaw, Love and White.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

On motion of Delegate Wilson, the strike and insert amendment was amended on page twenty-four, section six, line one, by striking out the entirety of the section, and inserting in lieu thereof the following:

"The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of \$2,500 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this State or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.”

On motion of Delegate Wilson, the strike and insert amendment was amended on page twenty-seven, section thirteen, line three, by striking out the number “5” and inserting in lieu thereof “ten”.

On page twenty-seven, section thirteen, line three, following the word “growers”, by adding the following proviso:

“Provided, That each grower may have up to two locations per permit.”

On page twenty-seven, section thirteen, line four, by striking out the number “5” and inserting in lieu thereof the word “ten”.

And,

On page twenty-eight, section thirteen, line five, by striking out the number “15” and inserting in lieu thereof the word “thirty”.

On motion of Delegate Ellington, the strike and insert amendment was amended on page thirty-one, section five, line one, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words, “Department of Revenue”.

On page thirty-one, section five, line three, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

On page thirty-one, section five, line five, by striking out words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

On page thirty-five, section one, line ten, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

And,

On page thirty-six, section one, line sixteen, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

The bill was ordered to third reading.

Delegate Cowles moved that the House adjourn, subject to announcements, until 11:00 a.m., Tuesday, April 4, 2017.

Delegate Cowles asked and obtained unanimous consent that his motion be withdrawn.

In accordance with House Rule 58, and having voted on the prevailing side, Delegate Shott moved that the House of Delegates reconsider the adoption of the amendment to the amendment offered by Delegate Sobonya.

The question before the House being the motion to reconsidered the amendment to the amendment, the same was put and prevailed

Delegate Sobonya asked and obtained unanimous consent to reform her amendment to read as follows:

On page thirty-eight, section six, line seven by inserting a new subsection (c) to read as follows: “The bureau shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this article and shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, subsequently propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code” and a period and renumber the remaining subsection.

And,

By adding the word “legislative” prior to the words “rule” or “rules” where appropriate throughout the bill.

The question being on the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 336**), and there were—yeas 43, nays 46, absent and not voting 11, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Ambler, Anderson, Arvon, Atkinson, Butler, Cooper, Cowles, Criss, Ellington, Espinosa, Fast, G. Foster, N. Foster, Frich, Gearheart, Hamrick, Harshbarger,

Higginbotham, Hollen, Householder, Kelly, Kessinger, Lane, Lewis, Martin, C. Miller, Nelson, O'Neal, Overington, Rohrbach, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Upson, Wagner, Ward, Wilson and Zatezalo.

Absent and Not Voting: Deem, Hanshaw, Hartman, Hicks, Howell, Love, Marcum, R. Romine, Sponaugle, Walters and White.

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

The bill was ordered to third reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Hanshaw.

Miscellaneous Business

Delegate Longstreth noted to the Clerk that she was absent on today when the votes were taken on Roll Nos. 308 and 309, and that had she been present, she would have voted "Yea" thereon.

Delegate Fast noted to the Clerk that had he been in his seat on Roll Nos. 316 and 317, he would have voted "Yea" thereon.

At 10:51 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, April 4, 2017.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Tuesday, April 4, 2017

56th Day

11:00 A. M.

UNFINISHED BUSINESS

- Com. Sub. for H. C. R. 78 - Almond Brothers and Family Veterans Bridge (AMENDMENT PENDING)
- H. C. R. 96 - U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge
- H. C. R. 103 - U S Army PFC Tracy Victor Rohrbaugh Memorial Bridge

THIRD READING

- S. B. 28 - Creating new system for certain contiguous counties to establish regional recreation authorities (HOWELL) (REGULAR)
- S. B. 169 - Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants (NELSON) (REGULAR)
- S. B. 170 - Repealing state hemophilia program (NELSON) (REGULAR)
- S. B. 171 - Repealing Programs of All-Inclusive Care for Elderly (NELSON) (REGULAR)
- Com. Sub. for S. B. 180 - Relating to PSC jurisdiction over certain telephone company and internet services (HOWELL) (REGULAR)
- S. B. 186 - Adjusting date when children become eligible for certain school programs and school attendance requirements (ESPINOSA) (REGULAR)
- S. B. 198 - Expanding Health Sciences Program to allow certain medical practitioners in underserved areas (NELSON) (REGULAR)
- Com. Sub. for S. B. 221 - Relating to composition of PEIA Finance Board (HOWELL) (REGULAR)

- Com. Sub. for S. B. 239 - Limiting use of wages by employers and labor organizations for political activities (SHOTT) (REGULAR)
- Com. Sub. for S. B. 280 - Moving administration of Civil Air Patrol to Adjutant General (COOPER) (JULY 1, 2017)
- S. B. 321 - Reporting requirements of employee information to CPRB (NELSON) (REGULAR)
- S. B. 344 - Relating to application of payments on consumer credit sale and loans (SHOTT) (REGULAR)
- Com. Sub. for S. B. 350 - Allowing licensed professional counselors be issued temporary permit (HOWELL) (REGULAR)
- Com. Sub. for S. B. 358 - Relating generally to trustee sale of timeshare estates (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 364 - Incorporating changes to Streamlined Sales and Use Tax Agreement (NELSON) (REGULAR)
- S. B. 365 - Maintaining solvency of Unemployment Compensation Fund (NELSON) (REGULAR)
- Com. Sub. for S. B. 386 - Creating WV Medical Cannabis Act (SHOTT) (REGULAR)
- S. B. 392 - Relating to Municipal Police Officers and Firefighters Retirement System (NELSON) (REGULAR)
- Com. Sub. for S. B. 398 - Creating Emergency Volunteer Health Practitioners Act (SHOTT) (REGULAR)
- S. B. 495 - Relating to regulation of events by State Athletic Commission (HOWELL) (REGULAR)
- Com. Sub. for S. B. 505 - Providing five-year reclamation period following completion of well pads for horizontal wells (SHOTT) (REGULAR)
- S. B. 564 - Relating to Statewide Independent Living Council (HOWELL) (REGULAR)
- S. B. 566 - Claims against state (NELSON) (EFFECTIVE FROM PASSAGE)

- Com. Sub. for S. B. 581 - Relating generally to administration of trusts (SHOTT) (REGULAR)
- Com. Sub. for S. B. 588 - Relating to reproduction, distribution and sale of tax maps (HOWELL) (REGULAR)
- Com. Sub. for S. B. 671 - Relating to WV Anatomical Board (HOWELL) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 4 - Allowing licensed professionals donate time to care of indigent and needy in clinical setting (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 300 - Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 303 - Supplemental appropriation of public moneys from Treasury to DHHR (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 305 - Supplemental appropriation of public moneys from Treasury to Fire Commission (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 337 - Hiring correctional officers without regard to placement on correctional officer register (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 412 - Relating to WV Jobs Act reporting requirements (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 484 - Relating generally to taxation (NELSON) (EFFECTIVE FROM PASSAGE) (FINANCE COMMITTEE AMENDMENT PENDING)
- S. B. 493 - Providing increase in compensation for conservation officers (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 499 - Creating Debt Resolution Services Division in Auditor's office (HOWELL) (REGULAR)
- Com. Sub. for S. B. 563 - Relating to Consumer Credit and Protection Act (SHOTT) (REGULAR)

S. B. 621 - Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations (ESPINOSA) (EFFECTIVE FROM PASSAGE) (EDUCATION COMMITTEE AMENDMENT PENDING)

Com. Sub. for H. B. 2018 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution (NELSON) (EFFECTIVE FROM PASSAGE)

FIRST READING

Com. Sub. for S. B. 134 - Authorizing Bureau of Commerce to promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 240 - Creating crime of nonconsensual distribution of sexual images (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 255 - Relating generally to filling vacancies in elected office (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 299 - Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 339 - Creating Legislative Coalition on Chronic Pain Management (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 360 - Creating Legislative Coalition on Diabetes Management (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 402 - Relating to covenants not to compete between physicians and hospitals (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 441 - Establishing Municipal Home Rule Pilot Program (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)

S. B. 490 - Clarifying standard of liability for officers of corporation (SHOTT) (REGULAR)

- S. B. 578 - Relating generally to copies of health care records furnished to patients (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 602 - Creating uniform system of recording and indexing fictitious names used by sole proprietors (SHOTT) (REGULAR)
- Com. Sub. for S. B. 606 - Relating to minimum wage and maximum hours for employees (SHOTT) (REGULAR)
- Com. Sub. for S. B. 631 - Prosecuting violations of municipal building code (SHOTT) (REGULAR)
- Com. Sub. for S. B. 636 - Authorizing State Fire Commission establish program to address problems facing VFDs (HOWELL) (REGULAR)
- S. B. 690 - Authorizing WV State Police impose and collect fees for agencies and entities using their facilities (SHOTT) (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Tuesday, April 4, 2017

56th 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**

TUESDAY, APRIL 4, 2017

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON ROADS & TRANSPORTATION
8:15 A.M. – ROOM 215E**

**COMMITTEE ON FINANCE
9:00 A.M. – ROOM 460M**

**COMMITTEE ON EDUCATION
9:00 A.M. – ROOM 434M**

**COMMITTEE ON HEALTH & HUMAN RESOURCES
9:00 A.M. – ROOM 215E**

**COMMITTEE ON JUDICIARY
10:00 A.M. – ROOM 418M**

**COMMITTEE ON ENERGY
2:00 P.M. – ROOM 418M**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470