

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
FIFTY-SIXTH DAY

Charleston, West Virginia, Tuesday, March 5, 2019

The Senate met at 11:15 a.m.

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

Prayer was offered by Pastor Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Monday, March 4, 2019,

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

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

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

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

Senate Resolution 68—Memorializing the life of the Honorable John Franklin Deem, veteran, businessman, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant.

Whereas, The Honorable John Franklin Deem was born March 20, 1928, in Harrisville, West Virginia, the son of Lyla Matheny and Fulton S. Deem; and

Whereas, The Honorable John Franklin Deem attended Mountain State Business College, West Virginia University, and graduated with a Bachelor of Science degree in petroleum engineering from Marietta College; and

Whereas, The Honorable John Franklin Deem served his country proudly in the United States Navy during World War II; and

Whereas, The Honorable John Franklin Deem owned Frank Deem's Market in Harrisville, Frank Deem Chevrolet in St. Mary's, and was owner and operator of JF Deem Oil and Gas for more than 50 years; and

Whereas, The Honorable John Franklin Deem served as a member of the West Virginia Legislature for nearly 48 years over the course of seven decades, having been elected from the counties of Ritchie, Pleasants, and Wood; and

Whereas, The Honorable John Franklin Deem began his unparalleled career in public service in 1954, when he was first elected to the West Virginia House of Delegates. From 1954 to 2016, he was elected to the House of Delegates for eight terms; and

Whereas, The Honorable John Franklin Deem was elected to the West Virginia Senate in 1964, and went on to serve a total of eight terms in the Senate, spanning the years from 1964 to 2010; and

Whereas, The Honorable John Franklin Deem was a member of the Parkersburg Rotary (where he was a Harris Fellow), Parkersburg Country Club, Sons of the American Revolution, Independent Oil and Gas Association, West Virginia Oil and Natural Gas Association, and the United States Golf Association. He was a former member of the West Virginia University - Parkersburg Foundation; and

Whereas, The Honorable John Franklin Deem was a supporter of the West Virginia Symphony, the Boys and Girls Club of Parkersburg, the Parkersburg Art Center, and the Ritchie County Golf Program; and

Whereas, Sadly, the Honorable John Franklin Deem passed away on October 10, 2018, bringing to an end a distinguished life of public service and leaving behind a spirit that will reside throughout the hills of West Virginia forever; and

Whereas, It is fitting that the Senate pay tribute to the life and legacy of the Honorable John Franklin Deem, for his many contributions to his community, state, and nation; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of the Honorable John Franklin Deem, veteran, businessman, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant; and, be it

Further Resolved, That the Senate extends its most sincere condolences to the family of the Honorable John Franklin Deem on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable John Franklin Deem.

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

The question being on the adoption of Senate Resolution 68, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 68) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale, Azinger, Stollings, Smith, Trump, Prezioso, Facemire, and Blair regarding the adoption of Senate Resolution 68 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:49 a.m., the Senate recessed to present Senate Resolution 68.

The Senate reconvened at 11:53 a.m. and resumed business under the sixth order of business, which agenda includes the making of main motions.

Senator Prezioso moved that the Senate Committee on Education be discharged from further consideration of

Eng. House Bill 2730, Increasing the compensation of the membership of the State Police and the salaries for public school teachers and school service personnel.

Following discussion,

Senator Trump moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Prezioso's aforestated motion, and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Prezioso's aforestated motion had not prevailed.

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

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

Eng. Com. Sub. for Senate Bill 3, Establishing WV Small Wireless Facilities Deployment Act.

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

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

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

CHAPTER 11. TAXATION

ARTICLE 6L. SPECIAL METHOD FOR VALUATION OF CERTAIN WIRELESS TECHNOLOGY PROPERTY.

§11-6L-1. Short title.

This article shall be known and cited as the Wireless Technology Business Property Valuation Act.

§11-6L-2. Definitions.

For the purposes of this article:

(1) "Tower" means a structure which hosts an antenna or other equipment used for the purposes of transmitting cellular or wireless signals for communications purposes, including telephonically, or for computing purposes, including any antenna and all associated equipment, and which is constructed or erected between July 1, 2019 and July 1, 2024; and

(2) "Salvage value" means five percent of original cost.

§11-6L-3. Limited-time valuation of certain specialized wireless technology property.

Notwithstanding any other provision of this code to the contrary, for five years immediately following the date of its erection, the value of a tower is its salvage value, and the correlated value determined under a unit valuation approach shall be reduced by the difference between the original cost and the salvage value of a tower.

§11-6L-4. Initial determination; Protest and appeal.

The valuation and assessment of any tower subject to this article, including the process of protest and appeal from any such valuation shall be conducted the manner set forth and more fully described in Article 6, Chapter 11 of this Code and any applicable legislative rules.

§11-6L-5. Effective date.

This article is effective on and after July 1, 2019.

**CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION
POLICIES.**

ARTICLE 4. MAKE-READY POLE ACCESS.

§31G-4-4. Public Service Commission jurisdiction; rulemaking; enforcement.

(a) The Public Service Commission shall possess and exercise regulatory jurisdiction over the provisions of this article. The commission shall administer and adjudicate disputes relating to the issues and procedures provided for under this article.

(b) The commission shall adopt the rates, terms and conditions of access to and use of poles, ducts, conduits and rights-of-way as provided in 47 U.S.C. § 224 and 47 C.F.R. § 1.1401 – 1.1415, inclusive of the dispute resolution process incorporated by reference in those regulations and any subsequent modifications or additions to the provisions of the United States Code or Code of Federal Regulations provisions referenced herein.

(c) The commission shall certify to the Federal Communications Commission that this state, as evidenced by the enactment of this article, hereby exercises jurisdiction over the regulation of pole attachments. The certification shall include notice that the State of West Virginia hereby:

(1) Regulates the rates, terms, and conditions related to pole attachments, and

(2) In so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the services.

§31G-4-5. Electric power utilities; feasibility study for providing broadband services; Public Service Commission to assist; proposed legislation to be developed.; Report.

(a) For purposes of this section:

(1) “Commission” shall mean the West Virginia Public Service Commission.

(2) “Council” shall mean the Broadband Enhancement Council, as defined in §31G-1-1 of this Code.

(3) “Electric Utility” shall mean any electric utility operating within this state that is regulated by the commission.

(4) “Project” shall mean a middle-mile broadband infrastructure expansion project proposed by an electric utility.

(b) Each electric utility may investigate the feasibility of constructing and operating a project within the electric utility distribution system and, if it so elects, may submit a feasibility study of a proposed project to the Council on or before December 1, 2019. Additional feasibility studies may be submitted to the Council after December 1, 2019, without penalty.

(c) The Council and the Commission shall assist each such electric utility in its preparation of such a feasibility study.

(d) The feasibility study shall include an evaluation of the following:

(1) The scope of the proposed project for which the feasibility study is conducted, which shall include but not be limited to:

(A) The route of the middle-mile infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle mile, the location of the electric utility's distribution infrastructure that will be utilized in connection with the proposed project, the capacity of the middle mile broadband infrastructure that will be available to lease to last-mile broadband Internet providers upon completion of the proposed project;

(B) The estimated cost of the proposed project, including but not limited to engineering costs, construction costs, permitting costs, materials and labor, right of way costs, and a reasonable rate of return to the electric utility;

(C) The proposed schedule of construction of the proposed project; and

(D) The method of attachment and connection of the middle-mile broadband fiber assets to the electric utility's distribution infrastructure;

(2) The regulatory and legal barriers to an electric utility constructing a project and operating middle-mile broadband infrastructure to provide access to unserved areas of the state, as defined in §31G-1-2 of this Code, and any underserved areas of the state, and proposed legislation to address such regulatory barriers;

(3) Whether it is in the public interest and the interest of the electric utility to make improvements to the distribution grid in furtherance of providing such middle-mile broadband Internet services in conjunction with its program of electric distribution projects;

(4) Whether it is in the public interest and the interest of the electric utility to operate middle-mile broadband Internet assets to provide access to unserved and underserved areas of the state;

(5) Whether it is in the public interest and the interest of the electric utility to permit a third-party to lease such capacity to provide last-mile broadband Internet services to unserved and underserved areas of the state;

(6) Whether construction of middle-mile broadband Internet infrastructure utilizing electric utility distribution systems is feasible with respect to the maturity of the relevant technology, the compatibility of such services with existing electric services, and the financial requirements to undertake such project;

(7) The anticipated level of rate adjustment necessary to allow the electric utility to recover its costs associated with the proposed project, and a reasonable rate of return, on an expedited basis, that will be recovered by the electric utility through a rate adjustment at the Commission; and

(8) Such other information that is pertinent to the project;

(e) Upon receipt of a feasibility study, the Council shall post the same on the Council website for written public comment for a period of seven days and then shall render a determination, by a majority vote of the Council, as to the feasibility of the proposed project.

(f) In its consideration of the feasibility of a project, the Council shall identify one or more last-mile broadband Internet providers that may lease the middle-mile broadband Internet capacity created by the proposed project pursuant to lease terms and conditions set by the Council.

(g) The Council shall render such feasibility determination within 60 days from the date the feasibility study is submitted to the Council.

(h) Commencing January 1, 2020, and each year thereafter, the Council shall give a report of its consideration of feasibility studies submitted pursuant to this section of the code to the Governor, the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

§31G-4-6. Severability.

Pursuant to §2-2-10 of this code, if any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

CHAPTER 31H. SMALL WIRELESS FACILITIES DEPLOYMENT ACT.

ARTICLE 1. WEST VIRGINIA SMALL WIRELESS FACILITIES DEPLOYMENT ACT.

§31H-1-1. Legislative findings.

(a) The deployment of reliable small wireless facilities and other next generation wireless and broadband network technology is a matter of statewide concern and critical to the continued economic development and diversification in the state of West Virginia.

(b) Small wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 911 services to homes, businesses, and schools throughout the state of West Virginia.

(c) Because of the integral role that the delivery of broadband and wireless technology plays in the economic vitality of the state of West Virginia and in the lives of its citizens, the Legislature has determined that a law addressing the further deployment of wireless technology is of vital interest to the state.

(d) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, may often be deployed most effectively in public rights-of-way.

(e) To meet the key objectives of this chapter, wireless providers must have access to certain public rights-of-way and the ability to attach or collocate on existing infrastructure that will permit these providers to offer next generation wireless and broadband technology.

(f) To ensure that public and private West Virginia consumers may benefit from these services as soon as possible and to ensure that providers of wireless access have a fair and predictable

process for the deployment of small wireless facilities in a manner consistent with the character of the area in which the small wireless facilities are deployed, the Legislature is enacting this chapter, which specifies the regulatory authority for the collocation of small wireless facilities.

§31H-1-2. Definitions.

As used in this chapter, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

(2) "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code;

(3) "Applicant" means any person who submits an application and is a wireless provider;

(4) "Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to approve the installation, modification, or replacement of a utility pole or wireless support structure;

(5) "Authority" means the State of West Virginia or a political subdivision that has jurisdiction and control for use of public rights-of-way as provided by this code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way;

(6) "Authority utility pole" means a utility pole owned or operated by an authority in a public right-of-way;

(7) "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole;

(8) "Commissioner" means the Commissioner of the West Virginia Division of Highways;

(9) "Communications facilities" means the set of equipment and network components, including wires, cables, antennas, and associated facilities, used by a communications service provider to provide communications service;

(10) "Communications service" means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service;

(11) "Communications service provider" means any entity that provides communications service;

(12) "Decorative pole" means an authority utility pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, or specially designed informational, or directional signage, or temporary holiday or special event attachments have been placed, or are permitted to be placed, according to nondiscriminatory municipal rules or codes;

(13) "Division" means the West Virginia Division of Highways;

(14) "FCC" means the Federal Communications Commission of the United States;

(15) "Fee" means a one-time, nonrecurring charge;

(16) "Historic district" means a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C;

(17) "Law" means a federal or state statute, common law, code, rule, regulation, order, or a local ordinance or resolution;

(18) "Micro wireless facility" means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, that is no longer than 11 inches;

(19) "Permit" means a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

(20) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority;

(21) "Rate" means a recurring charge;

(22) "Right-of-way" means the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway;

(23) "Small wireless facility" means a wireless facility that meets both of the following qualifications:

(A) Each antenna could fit within an imaginary enclosure of no more than 6 cubic feet; and

(B) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: Electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and communications services;

(24) "Utility pole" means a pole or similar structure that is or may be used, in whole or in part, by a communication services provider or for electric distribution, lighting, traffic control, signage (if the pole is 15 feet or taller), or a similar function, or for the collocation of small wireless facilities. However, "utility pole" does not include wireless support structures or electric transmission structures;

(25) "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including;

(A) Equipment associated with wireless communications; and

(B) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include:

(i) The structure or improvements on, under, or within which the equipment is collocated; or

(ii) wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna;

(26) "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles, but that is not a wireless provider;

(27) "Wireless provider" means a wireless infrastructure provider or a wireless provider;

(28) "Wireless services" means any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile location, provided to the public using wireless facilities;

(29) "Wireless service provider" means a person who provides wireless services;

(30) "Wireless support structure" means a structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole; and

(31) "Wireline backhaul facility" is a facility used for the transport of communications service or any other electronic communications by coaxial, fiber-optic cable, or any other wire.

ARTICLE 2. ACCESS TO PUBLIC RIGHTS-OF-WAY.

§31H-2-1. Use of rights-of-way for small wireless facilities and utility poles; other structures.

(a) The provisions of this section shall only apply to activities of a wireless provider within the right-of-way.

(b) Except as provided in this chapter, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities or the installation of utility poles and associated small wireless facilities.

(c) An authority may not enter into an exclusive arrangement with any person for use of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of utility poles.

(d) An authority may only charge a wireless provider a rate or fee for the use of the right-of-way with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a utility pole in the right-of-way if the authority charges other entities for similar use of the right-of-way. Notwithstanding any provision of this article to the contrary, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate to a wireless provider for the use of the right-of-way. The rate for occupancy and use of the right-of-way may not initially exceed \$25 per year per small wireless facility. An authority may adjust this rate up to 10 percent every five years.

(e) Subject to the provisions of this section, a wireless provider has the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, and replace its own utility poles or, with the permission of the owner, a third party's utility pole, along, across, upon, and under the right-of-way. Such structures and facilities shall be so installed and maintained as not to obstruct or hinder the usual travel or public safety on such right-of-way or to obstruct the legal use of such right-of-way by utilities or authorities.

(f) Each new or modified utility pole installed by a wireless provider in the right-of-way may not exceed the greater of:

(1) 10 feet in height above the tallest existing utility pole in place as of the effective date of this chapter located within 500 feet of the new pole in the same right-of-way; or

(2) 50 feet above ground level. New small wireless facilities in the right-of-way may not extend:

(A) More than 10 feet above an existing utility pole in place as of the effective date of this chapter; or

(B) for small wireless facilities on a new utility pole, above the height permitted for a new utility pole pursuant to the provisions of this section. Subject to the provisions of this article, a wireless provider has the right to collocate a small wireless facility and install, maintain, modify, operate, and replace its own utility pole or, with the permission of the owner, a third party's utility pole that exceeds these height limits along, across, upon, and under the right-of-way, subject to applicable zoning regulations.

(g) An authority may adopt reasonable written design guidelines with objective, technically feasible criteria that reasonably match the aesthetics and character of an immediate area regarding all of the following:

(1) The location of any ground-mounted small wireless facilities;

(2) The location of a small wireless facility on a utility pole or wireless support structure;

(3) The appearance and concealment of small wireless facilities, including those relating to materials used for arranging, screening, or landscaping; and

(4) The design and appearance of a utility pole or wireless support structure.

Any such guidelines shall be applied in a nondiscriminatory manner. Materials utilized to comply with the appearance and concealment criteria established in the guidelines shall not be considered part of the small wireless facility for purposes of facility size restrictions in this chapter.

Each new or modified small wireless facility or utility pole installed in the right-of-way shall comply with an authority's current design guidelines.

(h) A wireless provider is permitted to replace decorative poles when necessary to collocate a small wireless facility, but any replacement pole shall reasonably conform to the design aesthetics of the decorative poles being replaced.

(i) A wireless provider shall comply with written, objective, reasonable, and nondiscriminatory requirements that prohibit the installation of structures in the right-of-way in an area designated solely for underground communications and electric lines where:

(1) The authority has required all such lines to be placed underground by a date certain that is three months prior to the submission of the application;

(2) Those utility poles which the authority allows to remain shall be made available to wireless providers for the collocation of small wireless facilities and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities, in compliance with this act; and

(3) a wireless provider may install a new utility pole in the designated area that otherwise complies with the other subsections of this section when it is not able to provide wireless service by collocating on a remaining structure. For small wireless facilities installed before an authority adopts requirements that communications and electric lines be placed underground, an authority adopting such requirements shall:

(A) Permit a wireless provider to maintain the small wireless facilities in place subject to any applicable pole attachment agreement with the utility pole owner; or

(B) permit the wireless provider to replace the associated utility pole within 50 feet of the prior location, subject to the permission of the utility pole owner.

(j) Subject to the provisions of this section, an authority may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district. Any such design or concealment measures may not have the effect of prohibiting any provider's technology; nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(k) Any requirements an authority adopts under subsections (g) through (j), inclusive, of this section must be:

(1) Reasonable, in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments;

(2) no more burdensome than those applied to other types of infrastructure deployments; and

(3) objective and published in advance. The authority, in the exercise of its administration and regulation related to the management of the right-of-way, must be competitively neutral with regard to other wireless service providers who are users of the right-of-way, including that terms may not be unreasonable or discriminatory and may not violate any applicable law or effectively prohibit the provision of wireless services.

(l) The authority may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and to return the right-of-way to its functional equivalence before the damage, as determined by the authority, pursuant to the competitively neutral, reasonable requirements and specifications of the authority. If the wireless provider fails to make the repairs required by the authority within a reasonable time after written notice, the authority may complete those repairs and charge the applicable party the reasonable, documented cost of such repairs. Regardless of whether the authority or the wireless provider ultimately makes the repairs, the authority may assess an additional fine of \$100 per day that the wireless provider failed to make the required repairs after the wireless provider received written notice until the repairs were completed.

(m) Nothing in this chapter shall be deemed to impose or otherwise affect any rights, controls, tariffs, or contractual obligations that may be established with regard to the utility poles, similar structures, or equipment of any type that are owned or controlled by an investor-owned electric utility whose rates are regulated by the Public Service Commission of West Virginia or any such utility's affiliates, or by an independent transmission company.

§31H-2-2. Permitting process for small wireless facilities.

(a) The provisions of this section shall apply to the permitting of small wireless facilities by a wireless provider in or outside the right-of-way as specified in subsection (b) of this section and to the permitting of the installation, modification, and replacement of utility poles by a wireless provider inside the right-of-way.

(b) Small wireless facilities that meet the requirements of §31H-2-1(f) through §31H-2-1(j) of this code shall be classified as permitted uses and not subject to zoning review or approval if they are collocated:

(1) In the right-of-way in any zone or;

(2) outside the right-of-way in property not zoned exclusively for single-family residential use.

(c) An authority may require an applicant to obtain one or more permits to collocate a small wireless facility that meets the requirements of §31H-2-1(f) through §31H-2-1(j) of this code or to install, modify, or replace a utility pole and associated small wireless facilities that meet the requirements of §31H-2-1(f) through §31H-2-1(j) of this code, provided that the permits are of general applicability. An authority shall receive applications for, process, and issue permits subject to the following requirements:

(1) An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority on the wireless provider's utility pole;

(2) An applicant may not be required to provide more information to obtain a permit than communications service providers that are not wireless providers, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria set forth in this subsection;

(3) An authority, other than the Division of Highways, may not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole nor the underground placement of small wireless facilities;

(4) An authority, other than the Division of Highways, may not limit the placement of small wireless facilities by minimum separation distances;

(5) An authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless provider within one year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

(6) Within 10 days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority must specifically identify the missing information in writing. The processing deadlines in this subsection are tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority;

(7) An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within 60 days of receipt of the application for a collocation of a small wireless facility and 90 days for an application for the installation, modification, or replacement of a utility pole in the right-of-way;

(8) An authority may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole that meets the requirements of this section only if the proposed application:

(A) Materially interferes with the safe operation of traffic control equipment;

(B) Materially interferes with sight lines or clear zones for transportation or pedestrians;

(C) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(D) Fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by legislative rule or ordinance that concern the location of ground-mounted equipment and new utility poles. Such spacing requirements may not prevent a wireless provider from serving any location;

(E) Fails to comply with applicable codes, legislative rule, and generally applicable standards that are consistent with this chapter and adopted by an authority for construction and public safety in the rights-of-way, including reasonable and nondiscriminatory wiring and cabling requirements, grounding requirements, and abandonment and removal provisions;

(F) Fails to comply with applicable design guidelines adopted under §31H-2-1(g) of this code;
or

(G) Fails to attest that a small wireless facility will comply with relevant Federal Communications Commission (FCC) regulations concerning;

(1) Radiofrequency emissions from radio transmitters; and

(2) unacceptable interference with the public safety spectrum and CII spectrum, including compliance with the abatement and resolution procedures for interference with the public safety spectrum and CII spectrum established by the FCC set forth in 47 C.F.R. 22.970 through 47 C.F.R. 22.973 and 47 C.F.R. 90.672 through 47 CFR 90.675;

(9) The authority must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within 30 days. Any subsequent review shall be limited to the changes made in the resubmission;

(10) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed at the applicant's discretion to file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities; the denial of one or more small wireless facilities in a consolidated application may not delay processing of any other small wireless facilities in the same batch;

(11) Installation or collocation for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the authority and the applicant agree to extend this period or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to:

(A) Undertake the installation or collocation; and

(B) Subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated utility pole installed by the wireless provider or authority utility that is covered by the permit for a period of not less than 10 years, which must be renewed for equivalent durations so long as the small wireless facilities and utility pole are in compliance with the criteria set forth in this subsection;

(12) An authority may not institute, either expressly or de facto, a moratorium on filing, receiving, or processing applications or issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities.

(d) An authority may require a permit to work within a right-of-way for any activities under this chapter, if applicable, and may prohibit access when a road is closed or its access is limited to the public: *Provided*, that except for this permit, and the other actions explicitly authorized by this chapter, an authority may not require an additional application, approval, or permit, or require any fees or other charges from a communications service provider authorized to occupy the right-of-way, for:

(1) Routine maintenance;

(2) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller; or

(3) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on existing cables that are strung between existing utility poles in compliance with applicable safety codes and the pole owner's construction standards and engineering practices.

(e) An authority may revoke a permit at any time if the conditions of the permit required pursuant to this article are no longer being satisfied.

§31H-2-3. Access to authority utility poles; application and permit fees and rates for small wireless facilities.

(a) An authority shall allow the collocation of small wireless facilities on authority utility poles within the right-of-way subject to the provisions of this chapter and the following:

(1) An authority may not enter into an exclusive arrangement with any person for the right to attach small wireless facilities to authority utility poles;

(2) The rates and fees for collocations on authority utility poles shall be nondiscriminatory regardless of the services provided by the collocating person;

(3) An authority may charge an annual recurring rate to collocate small wireless facilities on an authority utility pole that equals \$65 per year per pole. An authority may adjust this rate 10 percent every five years, rounded to the nearest five dollars. Nothing in this subdivision prohibits a wireless provider and an authority from mutually agreeing to an annual recurring rate of less than \$65 to collocate a small wireless facility on an authority utility pole;

(4) The rates, fees, and terms for make-ready work must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this section;

(5) An authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority utility pole only if it demonstrates that the collocation would make the authority utility pole structurally unsound; and

(6) The person owning, managing, or controlling the authority utility pole may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work including any pole replacement may not exceed the actual costs or the amount charged to other communications service providers for similar work and may not include any consultant fee or expense.

(b) For the purposes of a state-owned right-of-way maintained by the Division of Highways, the commissioner shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article.

(c) Application fees are subject to the following requirements:

(1) An authority may not require a wireless provider to pay any rates, fees, or compensation to the authority or other person other than what is expressly authorized by this chapter;

(2) An authority may charge an application fee for collocation of small wireless facilities on an existing utility pole not to exceed \$200 each for the first five small wireless facilities in the same application and \$100 for each additional small wireless facility in the same application. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars;

(3) An authority may charge an application fee for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications in this chapter not to exceed \$250. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars; and

(4) An authority may charge an application fee for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility that is not a permitted use in accordance with the specifications in this chapter not to exceed \$1,000. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars.

§31H-2-4. Local authority; miscellaneous provisions.

(a) Nothing in this chapter may be construed to relieve any person from any requirement:

(1) To obtain a franchise or a state-issued authorization to offer cable television service; or

(2) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this chapter. The permitting procedures and authorizations set forth in this chapter apply only to the placement of small wireless facilities and associated utility poles, and do not authorize the installation or operation of a wireline backhaul facility.

(b) Except as provided in this chapter or otherwise specifically authorized by state or federal law, an authority shall not adopt or enforce any regulations or requirements on the placement or operation of communications facilities in a right-of-way by a communications service provider authorized by state or local law to operate in a right-of-way.

(c) Except as authorized by federal law, this chapter, and municipal taxation ordinances authorizing collection of business and occupation taxes since at least November 1, 1998, an authority shall not regulate any communications services or impose or collect any tax, fee, or charge for the provision of communications service over the communications service provider's communications facilities in a right-of-way, to the extent the communications service provider is already paying the authority a fee for access to the right-of-way.

(d) Subject to the provisions of this chapter and applicable federal law, an authority may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries with respect to wireless support structures and utility poles; no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not owned or controlled by the authority, other than to comply with applicable codes; and an authority shall evaluate the structure classification for wireless support structures under the latest version of ANSI/TIA-222. Nothing in this chapter authorizes

the state or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.

(e) An authority may adopt an ordinance that makes available to wireless providers rates, fees, and other terms that comply with the provisions of this chapter. Subject to the provisions of this section, in the absence of an ordinance that fully complies with this chapter and until such a compliant ordinance is adopted, if at all, wireless providers may install and operate small wireless facilities and utility poles under the requirements of this chapter. An authority and a wireless provider may enter into a voluntary and nondiscriminatory agreement implementing the provisions of this chapter, but an authority may not require a wireless provider to enter into such an agreement.

(f) An agreement or ordinance that does not fully comply with this chapter may apply only to small wireless facilities and associated utility poles that became operational or were installed before the effective date of this chapter. Such an agreement or ordinance may not be renewed, or extended, unless it is modified to fully comply with this chapter. An agreement or ordinance that applies to small wireless facilities and associated utility poles that became operational or were constructed before the effective date of this chapter is invalid and unenforceable beginning on the 181st day after the effective date of this chapter unless it fully complies with this chapter. If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this chapter and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and associated utility poles that become operational or were constructed before the effective date of this chapter may remain installed and be operated under the requirements of this chapter.

(g) An agreement or ordinance that applies to small wireless facilities and utility poles that become operational on or after the effective date of this chapter is invalid and unenforceable beginning on the effective date of this chapter unless it fully complies with this chapter. If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this chapter and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and utility poles may be installed and operated in the right-of-way or become operational under the requirements of this chapter.

(h) Any wireless provider who owns or operates small wireless facilities or utility poles in the right-of-way shall indemnify, protect, defend, and hold the authority and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the wireless provider who owns or operates small wireless facilities or utility poles in the right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the wireless provider, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in rights-of-way.

(i) Except for a wireless provider with an existing franchise to occupy and operate in the rights-of-way, during the period in which the wireless provider's facilities are located on the authority improvements or rights-of-way, the authority may require the wireless provider to carry, at the wireless provider's own cost and expense, the following insurance:

(1) Property insurance for its property's replacement cost against all risks;

(2) workers' compensation insurance, as required by law; or

(3) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. An authority may require a wireless provider to include the authority as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the authority in a commercial general liability policy as reasonably required by the authority.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirements required by an authority. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this section. A wireless provider that elects to self-insure shall provide to the authority evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the authority.

(j) An authority may impose reasonable and nondiscriminatory requirements for bonds, escrow deposits, letters of credit, or any other type of financial surety to ensure removal of abandoned or unused wireless facilities or damage to the right-of-way or authority property caused by the wireless provider or its agent.

(k) On or before December 31, 2026, all Class I and Class II municipalities shall report to the Joint Committee on Government and Finance of the effects of the implementation of this article.;

And,

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

Eng. Com. Sub. for Senate Bill 3—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6L-1, §11-6L-2, §11-6L-3, §11-6L-4, and §11-6L-5, to amend said code by adding thereto three new sections, designated §31G-4-4, §31G-4-5, and §31G-4-6, and to amend said code by adding thereto a new chapter, designated §31H-1-1, §31H-1-2, §31H-2-1, §31H-2-2, §31H-2-3, and §31H-2-4, all relating to wireless telecommunication technology facilities generally; providing a special method for valuation of certain wireless technology property for property taxes; defining terms; providing mandated salvage valuation of certain wireless businesses' property; specifying method for valuation of certain property; requiring initial determination and specifying procedure for protest and appeal of determination; establishing and delineating Public Service Commission jurisdiction over make-ready pole access within the state; relating to the determination of the feasibility of electric utilities constructing and operating middle-mile broadband internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in the determination of the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband internet projects within a certain period of time; requiring certain reports be submitted to certain officials and committees; and providing for severability; the establishment of the West Virginia Small Wireless Facilities

Deployment Act; making legislative findings; defining terms; providing for access to public rights-of-way for the collocation of small wireless facilities; providing for certain permit requirements; authorizing and limiting access to collocation sites, structures and equipment; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 3, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 3) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 3) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 72, Creating Sexual Assault Victims' Bill of Rights.

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

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

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

PREAMBLE: This act shall be known as Hazel's Law.

ARTICLE 11A. VICTIM PROTECTION ACT ~~OF 1984.~~

§61-11A-9. Sexual Assault Victims' Bill of Rights.

(a) In addition to those rights afforded victims of crime by other provisions of this code, a sexual assault victim has the following rights:

(1) The right to a personal representative of the victim's choice to accompany him or her to a hospital or other health care facility and to attend proceedings concerning the alleged assault, including police interviews and court proceedings. *Provided*, That nothing in this subsection shall be construed to violate established forensic interview protocols;

(2) The right to receive a forensic medical examination consistent with the provisions of §61-8B-1(12) of this code conducted by a qualified medical provider in accordance with best practices, taking into consideration the age of the victim and circumstances of the offense;

(3) The right to have a sexual assault evidence collection kit tested and preserved by the investigating law-enforcement agency;

(4) The right to be informed by the investigating law-enforcement agency of any results of the forensic medical examination, if such disclosure would not impede or compromise an ongoing investigation;

(5) The right to be informed in writing of the policies governing the forensic medical examination and preservation of evidence obtained from the examination;

(6) The right to receive, upon his or her written request, notification by United States mail, restricted delivery, to his or her last known address, from the custodian of the evidence obtained from the forensic medical examination no fewer than 60 days prior to the date of the intended destruction or disposal of the evidence: *Provided*, That notice to a victim which meets the requirements of this subdivision, whether received by the addressee or not, meets all notice requirements imposed by this section;

(7) The right, upon his or her written request, to have the evidence obtained from the forensic medical examination preserved for an additional period not to exceed 10 years; and

(8) The right to be informed of the rights afforded a victim pursuant to this section.

(b) As used in this section, "sexual assault" means any sexual act proscribed by §61-8-1 *et seq.*, §61-8B-1 *et seq.*, and §61-8D-1 *et seq.* of this code.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 72, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 72) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 393, Protecting right to farm.

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

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

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

ARTICLE 19. PRESERVATION OF AGRICULTURAL PRODUCTION.

§19-19-2. Definitions.

For the purposes of this article:

(a) "Agriculture" shall mean the production of food, fiber and woodland products, by means of cultivation, tillage of the soil and by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, and the practice of forestry, silviculture, horticulture, harvesting of silviculture products, packing, shipping, milling, and marketing of agricultural products conducted by the proprietor of the agricultural operation, or any other legal plant or animal production and all farm practices. ~~the packing, shipping and marketing, but not including any manufacturing, milling, or processing of such products by other than the producer thereof.~~

(b) "Agricultural land" shall mean ~~not less than five acres~~ any amount of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of \$1,000 or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

(c) "Agricultural operation" shall mean any facility utilized for agriculture.

§19-19-7. Additional limitations on nuisance actions.

(a) The provisions of this section are in addition to the limitations on actions brought against an agricultural operation in §19-19-4 of this code, and shall also apply to any nuisance action brought against an agricultural operation in any court of this state.

(b) A person may not file a nuisance action to recover damages in which an agricultural operation is alleged to be a public or private nuisance unless:

(1) He or she is the majority legal land owner;

(2) He or she owns property adversely affected by agricultural operations within one half mile of the agricultural operation; and

(3) The agricultural operation has materially violated a federal, state, or local law applicable to agriculture.

(c) No agricultural operation within this state which has been in operation for a period of more than one year shall be considered a nuisance, either public or private, as the result of a changed condition in or about the locality where such agricultural operation is located. In any nuisance action, public or private, against an agricultural operation or its principals or employees proof that the agricultural operation has existed for one year or more is an absolute defense to the nuisance action, if the operation is in compliance with all applicable state and federal laws, regulations, and permits.

(d) No state or local agency may bring a criminal or civil action against an agricultural operation for an activity that is in material compliance with all applicable state and federal laws, regulations, and permits.

(e) No agricultural operation shall be or become a private or public nuisance if the operators are conducting the agricultural operation in a manner consistent with commonly accepted agricultural practice. If the operation is in material compliance with all applicable state and federal laws, regulations, and permits, it shall be presumed to be conducted in a manner consistent with commonly accepted agricultural practice.

(f) No agricultural operation shall be considered a nuisance, private or public, if the agricultural operation makes a reasonable expansion, so long as the operation is in material compliance with all applicable state and federal laws, regulations, and permits.

(1) For the purpose of this section, a reasonable expansion includes, but is not limited to:

(A) Transfer of the agricultural operation;

(B) Purchase of additional land for the agricultural operation;

(C) Introducing technology to an existing agricultural operation including, but not limited to, new activities, practices, equipment, and procedures consistent with technological development within the agricultural industry;

(D) Applying a Natural Resources Conservation Service program or other United States Department of Agriculture program to an existing or future agricultural operation; or,

(E) Any other change that is related and applied to an existing agricultural operation, so long as the change does not affect the agricultural operation's compliance with applicable state and federal laws, regulations, and permits.

(2) The reasonable expansion exemption provided by this subsection cannot apply to an expansion that:

(A) Creates a substantially adverse effect upon the environment; or

(B) Creates a hazard to public health and safety.

(g) A requirement of a municipality does not apply to an agricultural operation situated outside of the municipality's corporate boundaries on the effective date of this chapter. If an agricultural operation is subsequently annexed or otherwise brought within the corporate boundaries of a municipality, the requirements of the municipality do not apply to the agricultural operation.

(h) An agricultural operation is not, nor shall it become, a private or public nuisance after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began, and the conditions or circumstances complained of as constituting the basis for the nuisance action exist substantially unchanged since the established date of operation. The established date of operation is the date on which an agricultural operation commenced.

(i) The provisions of this section shall not apply in any of the following circumstances:

(1) Whenever a nuisance results from the negligent operation of any such agricultural operation; or

(2) To affect or defeat the right of any person to recover for injuries or damages sustained because of an agricultural operation or portion of an agricultural operation that is conducted in violation of a federal, state, or local statute or governmental requirement that applies to the agricultural operation or portion of agricultural operation.

(j) The protected status of an agricultural operation, once acquired, is assignable, alienable, and inheritable. The protected status of an agricultural operation, once acquired, may not be waived by the temporary cessation of operations or by diminishing the size of the operation.

§19-19-8. Damages.

(a) A person who brings a nuisance action for damages or injunctive relief against an agricultural operation that has existed for one year or more prior to the date that the action is instituted or who violates the provisions of §19-19-7(h) of this code is liable to the agricultural operation for all costs and expenses incurred in defense of the action, including, but not limited to, attorneys' fees, court costs, travel, and other related incidental expenses incurred in the defense.

(b) In no event shall the total amount of damages in any successful nuisance action exceed the diminished value of the subject property.

(c) The exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation shall be as follows:

(1) If the nuisance is determined to be a permanent nuisance, compensatory damages shall be limited to the reduction in the fair market value of the claimant's property caused by the nuisance, not to exceed the fair market value of the claimant's property; and

(2) If the nuisance is determined to be a temporary nuisance, compensatory damages shall be limited to the diminution of the fair rental value of the claimant's property caused by the nuisance.

(d) If any claimant or claimant's successor in interest brings a subsequent private nuisance action against any agricultural operation, the combined recovery from all such actions shall not exceed the fair market value of his or her property. This limitation applies regardless of whether the subsequent action or actions were brought against a different defendant than the preceding action or actions.

(e) A claimant shall not be awarded punitive damages for nuisance actions originating from an agricultural operation.;

And,

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

Eng. Com. Sub. for Senate Bill 393—A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §19-19-7 and §19-19-8, all relating to the right to farm; providing for amended definitions of “agriculture” and “agricultural land”; defining the term “agricultural operation”; limiting persons who may file a nuisance action against an agricultural operation; providing for protections to agricultural operations from nuisance actions under certain circumstances; prohibiting state and local agencies from bringing actions against agricultural operations for activities that are in material compliance with applicable state and federal laws, regulations, and permits; exempting agricultural operations from municipal requirements under certain circumstances; providing that protections from nuisance actions do not apply under certain circumstances; permitting that the protected status of an agricultural operation is assignable, alienable, and inheritable; making a person who brings a nuisance action against a protected agricultural operation liable for the costs and expenses of the agricultural operation in defending the action; limiting total damages to the diminished value of the subject property; providing for the exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation; providing that the combined recovery of any claimant or claimant's successor in interest against an agricultural operation shall not exceed the fair market value of his or her property; and prohibiting punitive damages being awarded to a claimant for nuisance actions originating from an agricultural operation.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 393, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 393) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 441, Relating to higher education campus police officers.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 520, Requiring entities report drug overdoses.

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

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

On page two, section four, line two, after the word “appropriate” by inserting the word “information”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 520, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 520) passed with its title.

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

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

Eng. Senate Bill 636, Authorizing legislative rules for Higher Education Policy Commission.

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

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

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

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

On page three, section three, lines nine and ten, by striking out the words “at the direction of his or her collaborating physician,”;

On page four, section three, line twenty-five, by striking out the words “or practice notification”;

On page four, section three, line thirty-seven, by striking out the words “or practice notification”;

On page five, section nine, line thirteen, by striking out the words “or practice notification”;

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

§30-3E-10a. Practice notification requirements.

(a) A physician assistant shall collaborate with physicians in a hospital only after the physician assistant is notified by the appropriate licensing board that a complete practice notification has been filed with the Board.

(b) The licensing boards shall promulgate emergency rules to establish the content and criteria for submission of practice notifications for physician assistant hospital practice.

(c) A physician assistant shall notify the Board, in writing, within ten days of the termination of a practice notification. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.;

On page six, section eleven, line two, by striking out the word “or”;

On page seven, section eleven, line twenty-one, after the word “facility.” by striking out the remainder of the subsection;

On page seven, lines twenty-five through twenty-seven, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated (d), to read as follows:

(d) Every licensed physician assistant shall be individually responsible and liable for the care they provide. This article does not relieve physician assistants or collaborating physicians of responsibility and liability which otherwise may exist for acts and omissions occurring during collaboration.;

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

§30-3E-12. Scope of practice.

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts:

(1) Pursuant to a practice notification or delegated to the physician assistant as part of an authorized practice agreement;

(2) Appropriate to the education, training and experience of the physician assistant;

(3) Customary to the practice of the collaborating physician; and

(4) Consistent with the laws of this state and rules of the boards.

(b) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists or pharmacists, or certified as nurse anesthetists.;

And,

On page seven, section thirteen, line four, by striking out the word “primary”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 668, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 668) passed with its title.

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

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

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

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

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

On page one, section eight-a, by striking out all of subdivision (c);

And,

Eng. Com. Sub for House Bill 2359—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a, relating to providing for a restricted commercial driver's license for employees of designated farm-related service industries; and authorizing the Commissioner of Motor Vehicles to define seasonal periods.

Senator Takubo moved that the Senate concur in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2359, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Stollings, Unger, and Woelfel—13.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2359) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 2547, Relating to the election prohibition zone.

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

Senator Takubo then moved that the Senate accede to the request of the House of Delegates and recede from its amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed House Bill 2547, as amended by deletion, was then put upon its passage.

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

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—15.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2547) passed with its title.

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

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

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

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

Eng. Com. Sub. for House Bill 3007, Authorizing the Commissioner of Agriculture to require background checks.

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

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

Eng. Com. Sub. for House Bill 3007—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment; providing legislative findings; describing background check procedure; making background check results confidential; providing exceptions; designating background checks and related documents not to be considered public records under chapter 29B of said code; prohibiting disqualification of applicant for criminal conviction not bearing rational nexus to employment category; barring consideration of crimes of moral turpitude in hiring; allowing reapplication after disqualification from employment; establishing procedure for individual obtaining preapplication determination if criminal record will disqualify individual from employment; and requiring rulemaking.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 3007, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3007) passed with its House of Delegates amended title.

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

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

Eng. House Bill 3140, Relating to the Division of Natural Resources Infrastructure.

Executive Communications

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



Jim Justice
Governor of West Virginia

March 1, 2019

VIA HAND DELIVERY

The Honorable Mitch Carmichael
President, West Virginia Senate
Room 229M, Building 1
State Capitol
Charleston, West Virginia 25305

Re: **Enrolled Committee Substitute for Senate Bill 61**

Dear President Carmichael:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 61. This bill purports to add extortion to the list of criminal offenses for which a prosecutor may seek a wiretap to investigate.

The bill is technically flawed because its title is defective. See *State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, there are two section that are not referenced in the title, W.Va. Code §62-1D-6, which would provide that the evidence obtained by the wiretap can be received in any court of competent jurisdiction, and W.Va. Code §62-1D-9, which provides that information about the evidence obtained through wiretap may be presented in federal criminal proceedings.

As a result of this flaw, I disapprove and return Enrolled Committee Substitute for Senate Bill 61.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mac Warner
Secretary of State

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

Enr. Com. Sub. for Senate Bill 61, Adding certain crimes for which prosecutor may apply for wiretap.

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

The question being on the adoption of Senator Takubo's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill 61, the same was put and prevailed.

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

Enr. Com. Sub. for Senate Bill 61—An Act to amend and reenact 62-1D-6, §62-1D-8, and §62-1D-9 of the Code of West Virginia, 1931, as amended, relating to including the crime of extortion to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications; permitting for the lawful disclosure of lawfully intercepted communications in court proceedings including federal court; and permitting the use of derivative crime evidence to obtain an arrest warrant or indictment.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Beach, Facemire, Lindsay, and Romano—5.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. 61) passed with its title, as amended, as a result of the objections of the Governor.

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

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 5th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2690), Relating to guaranty associations.

(H. B. 2746), Relating to administration of estates.

And,

(H. B. 2827), Removing the residency requirements for hiring deputy assessors.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Eng. House Bill 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

And,

Eng. House Bill 2926, Requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans.

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

Respectfully submitted,

Ryan W. Weld,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Eng. Com. Sub. for House Bill 2330, Allowing honorably discharged veterans who possess certain military ratings to qualify to take an examination for licensing as a plumber, electrician, and sprinkler fitter.

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

Respectfully submitted,

Ryan W. Weld,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2330) contained in the preceding report from the Committee on Military was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2412, Relating to criminal acts concerning government procurement of commodities and services.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 2540, Prohibiting the waste of game animals, game birds or game fish.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2540) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 2715, Relating to Class Q special hunting permit for disabled persons.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Natural Resources.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. House Bill 2716, Relating to vessel lighting and equipment requirements.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2809, Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 48, Requesting study of eliminating use of minimum wage for people with intellectual, developmental or other disabilities.

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

Following a point of inquiry to the President, with resultant response thereto,

On motion of Senator Plymale, the Senate reconsidered its action by which immediately hereinbefore Senate Concurrent Resolution 48 was referred to the Committee on Rules.

The action thereon having been reconsidered,

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

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

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Baldwin and Jeffries, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page one hundred eighty-eight, after item 379, by inserting the following:

380 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2020 Org 0613

Veterans' Nursing Home - Surplus	XXXXX	5,000,000
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381 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2020 Org 0606

Early Warning Flood System – Surplus	XXXXX	400,000;
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And by renumbering the remaining items;

And,

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “25,900,000”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Baldwin and Jeffries to the bill, the same was put and prevailed.

On motions of Senators Woelfel and Plymale, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On page one hundred eighty-eight, after item 379, by inserting the following:

380 – Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2020 Org 0506

Sexual Assault Intervention and Prevention – Surplus ##### 125,000.00”;

And by renumbering the remaining items;

And,

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “20,625,000”

Following discussion and a point of inquiry to the President,

The question being on the adoption of the amendments offered by Senators Woelfel and Plymale to the bill, the same was put and prevailed.

On motions of Senators Stollings and Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On page forty-seven, item 56, after line twenty-eight, by inserting the following:

Center for End of Life	54500	350,000
CARDIAC Project.....	37500	250,000;

And,

On page forty-seven, item 56, line twenty-nine, by striking out “79,074,136” and inserting in lieu thereof “79,674,136”.

Following discussion,

At the request of Senator Takubo, unanimous consent being granted, further consideration of the bill and the pending amendments offered by Senators Stollings and Prezioso was deferred until the conclusion of bills on today’s third reading calendar.

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2311) passed with its title.

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

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2362 pass?”

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2362) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 2362—A Bill to amend and reenact §3-3-1 and §3-3-5c of the Code of West Virginia, 1931, as amended, all relating to emergency absentee ballots; providing that persons who become confined to a particular location on or after the seventh day preceding an election, because of illness, injury, physical disability, immobility due to extreme advanced age, or other medical reason, may vote an emergency absentee ballot; providing that a county commission may adopt a policy extending emergency absentee voting procedures to qualified voters who are eligible to vote an emergency absentee ballot; and providing that a county clerk may require written confirmation by certain licensed medical professionals that a voter meets the criteria to vote an emergency absentee ballot based on confinement.

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

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

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

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

Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2405) passed with its title.

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

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2439) passed with its title.

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

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2509) passed.

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

Eng. House Bill 2509—A Bill to amend and reenact §60A-4-403 of the Code of West Virginia, 1931, as amended, relating to creating the felony offense of a theft of a controlled substance; and establishing penalties.

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

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2525) passed with its title.

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

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a director of a community bank.

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

On the passage of the bill, the yeas were: Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Boley, Roberts, and Tarr—4.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2538) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Boley, Roberts, and Tarr—4.

Absent: Baldwin—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2538) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2600) passed.

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

Eng. Com. Sub. for House Bill 2600—A Bill to amend and reenact §3-4A-11a and §3-4A-15 of the Code West Virginia, 1931, as amended; to amend and reenact §3-5-10, §3-5-13, and §3-5-13a of said code; and to amend and reenact §3-6-3 of said code, all relating generally to the form of ballots; providing that sample ballots required to be printed as legal advertisements ahead of elections in counties where electronic voting has been adopted may consist of a facsimile of the absentee ballot; providing that when sample ballots for the precincts within a county contain different districts for certain offices or municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order; providing that if sample ballots must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot; providing that the publisher of the newspaper containing the sample ballot shall submit a proof and arrangement of the ballot to the ballot commissioners for approval prior to publication; providing that on primary election ballots, the nonpartisan ballot for judicial elections shall appear immediately after the state ticket and immediately before the county ticket; providing that on primary election ballots, the non-judicial nonpartisan ballot shall appear immediately after the county ticket and immediately before the district ticket; and providing that on primary election ballots, the national convention ticket shall appear immediately after the district ticket, with the election for at-large delegate to the national convention appearing immediately after the election for congressional district delegate to the national convention.

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

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2734) passed with its title.

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

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2872) passed.

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

Eng. House Bill 2872—A Bill to amend and reenact §29-3-12 of the Code of West Virginia, 1931, as amended, relating to authorizing any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer to assist the State Fire Marshal or any of his or her employees in any duties for which the State Fire Marshal has jurisdiction; granting the State Fire Marshal, any full-time deputy and assistant fire marshal the power of arrest for obstructing them in their official duties; authorizing the State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal to carry a firearm in the course of official duties; and establishing requirements for annual requalification.

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

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2958) passed with its title.

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

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3021) passed with its title.

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

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Beach, Ihlenfeld, Plymale, and Prezioso—4.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3045) passed with its title.

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

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

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

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

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3095) passed with its title.

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

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

At the respective requests of Senators Blair and Prezioso, and by unanimous consent, Senators Blair and Prezioso addressed the Senate regarding Committee Substitute for Senate Bill 150 (*Budget Bill*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:35 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:33 p.m.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in deferred order, with the amendments offered by Senators Stollings and Prezioso to the bill pending, and with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was again reported by the Clerk.

The question now being on the adoption of the amendments offered by Senators Stollings and Prezioso to the bill (*shown in the Senate Journal of today, pages 53 and 54*).

At the request of Senator Stollings, and by unanimous consent, the amendments offered by Senators Stollings and Prezioso to the bill were withdrawn.

On motions of Senators Stollings and Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page one hundred eighty-eight, item 379, after line five, by inserting the following:

383 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2020 Org 0506

Center for End of Life - Surplus.....	XXXX	\$	350,000
CARDIAC Project – Surplus	XXXX	\$	<u>250,000</u>
Total		\$	600,000

On page one hundred eighty-eight, item 379, line six, by striking out the number 20,500,000 and inserting in lieu thereof the number 26,625,000;

And,

By renumbering the remaining items accordingly.

On motion of Senator Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page seventy-three, item 98, after line seven, by inserting the following:

The Center of Excellence in Women’s Health.....	XXXXX	250,000;
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And,

On seventy-three, item 98, line eight, by striking out “110,242,558” and inserting in lieu thereof “110,924,136”.

On motion of Senator Stollings, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page one hundred eighty-eight, after item 379, by inserting the following:

384 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2020 Org 0622

Unclassified – Surplus XXXX \$ 30,000;

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “26,655,000”;

And,

By renumbering the remaining items.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

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

The Senate proceeded to the ninth order of business.

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

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

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendments to the bill were withdrawn.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section eight, line thirty-two, by striking out the word “assess” and inserting in lieu thereof the word “assesses”;

On page two, section eight, line thirty-two, by striking out the word “allow” and inserting in lieu thereof the word “allows”;

On page two, section eight, line thirty-three, by striking out the words “create an” and inserting in lieu thereof the words “creates a”;

On page two, section eight, line thirty-seven, before the words “Incubator process” by inserting “(1)”;

On page three, section eight, line forty-four, after the word “education” by changing the period to a semicolon and adding the word “and”;

On page three, section eight, line forty-five, before the words “Mastery-based education”, by inserting “(2)”;

On page three, section eight, line fifty-seven, by striking out the word “and” and inserting in lieu thereof the word “or”;

On page three, section eight, after line fifty-seven, by inserting a new paragraph, designated paragraph (G), to read as follows:

(G) May include an educational method or technique not meeting all other aspects of this definition if the state board determines that the method or technique is proven to advance student achievement more than other education systems meeting all aspects of this definition.;

On page four, section eight, lines seventy-five through seventy-eight, by striking out all of subdivision (3) and inserting in lieu thereof the following:

(3) Legislative appropriations made for Innovation in Education/Mastery-Based schools shall be deposited in the Innovation in Education Fund created in §18-5D-7 of this code and may be distributed consistent with §18-5E-7 of this code.;

And,

On page four, section eight, line eighty, by striking out the words “Schools/Mastery-Based” and inserting in lieu thereof the words “Education/Mastery-Based”.

The bill (Eng. H. B. 2009), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2020, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the provisions of Engrossed Committee Substitute for Senate Bill 150.

Following extended discussion,

The question being on the adoption of Senator Blair’s amendment to the bill, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

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

Absent: Baldwin and Boley—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Blair’s amendment to the bill adopted.

The bill (Eng. Com. Sub. for H. B. 2020), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver’s license.

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

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

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

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-1c. Temporary identification card for released inmates.

(a) The West Virginia Division of Corrections and Rehabilitation is authorized to issue a temporary identification card to an eligible inmate, no more than seven days prior to the inmate's release from the Division's custody. An identification card issued pursuant to this section shall be valid for 90 days after the date of issuance.

(b) A valid identification card issued pursuant to this section shall have the same force and effect as a standard identification card issued by the Division of Motor Vehicles pursuant to §17B-2-1(f) of this code.

(c)(1) Notwithstanding any other provision of this code, the Division of Motor Vehicles shall accept a valid identification card issued pursuant to this section as sufficient proof of identity, age, and residency of a person applying for an identification card or driver's license pursuant to §17B-2-1 of this code.

(2) If the Division of Motor Vehicles is unable to verify the person's social security number by another means, the Division of Motor Vehicles shall contact the Division of Corrections and Rehabilitation to verify the social security number provided by such person. The Division of Motor Vehicles shall accept verification by the Division of Corrections and Rehabilitation as sufficient documentation of the person's social security number for the purpose of issuing such person an identification card or driver's license pursuant to §17B-2-1 of this code.

(3) The Division of Corrections and Rehabilitation, in collaboration with the Division of Motor Vehicles, shall develop a policy to permit the sharing of released inmates' social security numbers for the limited purposes of this section, and shall obtain any necessary written authorization from an inmate prior to the inmate's release from the Division of Corrections and Rehabilitation's custody.

(d) An inmate is not eligible to receive an identification card pursuant to this section if the inmate is in possession of a valid West Virginia identification card or driver's license, which expires more than seven days after the inmate's date of release from the Division of Corrections and Rehabilitation's custody, or if the inmate is not a citizen of the United States.

(e) Nothing in this section shall be construed to permit or require issuance of an identification card or driver's license for federal use, in violation of the standards promulgated pursuant to the REAL ID Act of 2005, 49 U.S.C. § 30301 et seq.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2083) was reported by the Clerk and adopted:

On page two, section one-c, after subsection (e), by adding a new subsection, designated subsection (f), to read as follows:

(f) During the six months preceding an inmate's release date from the Division of Corrections and Rehabilitation's custody, the division shall make efforts to assist the inmate to obtain a certified copy of the inmate's birth certificate, a Social Security card, and a state-issued driver's license or identification card.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2083), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

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

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

Eng. House Bill 2515, Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

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

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

ARTICLE 56. CERTIFICATION OF RECOVERY RESIDENCES

§16-56-1. Definitions

As used in this article, the term:

(1) "Certificate of compliance" means a certificate that is issued to a recovery residence by the Department's appointed certifying agency.

(2) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance.

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

(4) "Recovery residence" means a single family, drug-free and alcohol-free residential dwelling unit, or other form of group housing, that is offered or advertised by any person or entity as a residence that provides a drug-free and alcohol-free living environment for the purposes of promoting sustained, long-term recovery from substance use disorder.

§16-56-2. Voluntary Certification of Recovery Residences.

(a) The Department shall contract with an entity to serve as the certifying agency for a voluntary certification program for drug-free and alcohol-free recovery residences based upon standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences that shall maintain nationally-recognized standards that:

(1) Uphold industry best practices and support a safe, healthy and effective recovery environment;

(2) Evaluate the residence's ability to assist persons in achieving long-term recovery goals;

(3) Protect residents of drug and alcohol free housing against unreasonable and unfair practices in setting and collecting fee payments.

(b) The Department shall require the recovery residence to submit the following:

(1) Documentation verifying certification as specified and administered by the certifying agency;

(2) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, documentation of verification by the municipality or county where the recovery residence is located stating that the recovery residence is in compliance.

(c) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, the municipality or county must perform requested or required inspections within 30 days of receiving a request for verification. If a residence is located within a municipality or county that offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and the municipality or county fails to perform requested or required inspections within 30 days of receiving a request for verification, the residence may apply for and be granted certification directly through the certifying agency without the aforementioned verification.

(d) Upon receiving a complete application, the certifying agency shall evaluate the residence to determine if the residence is in compliance with national best-practice standards and safety requirements. Additionally, any application of the items specified in this section, must comply with the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and the Americans with Disabilities Act of 2008, 42 U.S.C. § 12101 *et seq.*

(1) If it is determined that the residence is in compliance, the certification agency shall issue a certificate of compliance to the recovery residence operator for the specific recovery residence location set forth in the application.

(2) Each residence location, even if operated by the same person or entity, must maintain a certificate of compliance for the purposes of this article.

(e) The certifying agency may suspend or revoke a certificate of compliance if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified in writing and served by certified mail. Suspension or revocation may take place after a notice of deficiency is served and has existed for at least 30 days.

(f) The certifying agency shall implement and maintain a process by which a residence whose certification has been suspended or revoked may apply for and be granted reinstatement. If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and if the residence's certification suspended or revoked for non-compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing the municipality or county may charge a fee of up to \$100.00 for any requested re-inspection of a recovery residence by the residence seeking reinstatement.

(g) The Department shall periodically evaluate the quality, integrity, and efficacy of the accreditation program developed. The certifying agency, in consultation with the Department, shall promulgate rules subject to legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section that shall include a process for receiving complaints against drug-free and alcohol-free recovery residences and criteria by which such residences' certifications can be revoked.

(h) A person may not advertise to the public, any recovery residence as a "certified recovery residence" unless the recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00 for each infraction.

(i) Nothing herein shall be read to require any recovery residence to obtain certifications set forth herein in order to conduct operations.

§16-56-3 Referrals to Recovery Residences; Prohibitions; Receipt of State Funds.

(a) The certifying agency shall maintain, publish and disseminate a list of drug and alcohol free housing certified pursuant to this section. This list shall be disseminated to the Department for use by each state agency or vendor with a statewide contract that provides substance use disorder treatment services. The list shall also be posted on the website maintained by the certifying agency.

(b) The Division of Corrections and Rehabilitation, the Parole Board, county probation offices, day report centers, municipal courts, and a medical or clinical treatment facility that receives any funds for its operations from the state treasury, may not make a referral of any prisoner, parolee, probationer, or prospective, current, or discharged patient or client to a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in §16-56-2 of this code.

(c) No recovery residence is eligible to receive funds from any source within the state treasury unless it holds a valid certificate of compliance as provided in §16-56-2.

(d) A state agency and a medical or clinical treatment facility that receive funds for its operation from the state treasury, that make referrals to recovery residences shall maintain records of referrals to or from recovery residences.

(e) Nothing in this section requires a state agency or a clinical or medical provider to make a referral of a person to a recovery residence.

(f) A person who violates this section commits a misdemeanor, punishable by a fine of not less than \$500.00 nor more than \$1,000.00.

Following discussion,

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

The bill (Eng. H. B. 2530), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

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

The following amendments to the bill, from the Committee on Economic Development, were reported by the Clerk, considered simultaneously, and adopted:

On page four, section five, line eighteen, by striking out the words "five-year period" and inserting in lieu thereof the word "year";

And,

Amend the bill on page four, section five, line twenty-nine, by striking out the words "five-year period" and inserting in lieu thereof the word "year".

The bill (Eng. Com. Sub. for H. B. 2550), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2617, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

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

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

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

ARTICLE 6. THE INSURANCE POLICY.

§33-6-31d. Form for making offer of optional uninsured and underinsured coverage.

(a) Optional limits of uninsured motor vehicle coverage and underinsured motor vehicle coverage required by §33-6-31 of this code shall be made available to the named insured at the time of initial application for liability coverage and upon any request of the named insured on a form prepared and made available by the Insurance Commissioner. The contents of the form shall be as prescribed by the commissioner and shall specifically inform the named insured of the coverage offered and the rate calculation ~~therefor~~ for the coverage, including, but not limited to, all levels and amounts of ~~such~~ the coverage available and the number of vehicles which will be subject to the coverage. The commissioner shall provide for the use of electronic means of delivery and electronic signing when issuing the prescribed form. ~~The form shall be made available for use on or before the effective date of this section.~~ The form shall allow any named insured to waive any or all of the coverage offered.

(b) Any insurer who issues a motor vehicle insurance policy in this state shall provide the form to each person who applies for the issuance of ~~such~~ a policy by delivering the form to the applicant or by mailing the form to the applicant. ~~together with the applicant's initial premium notice~~ Insurers may deliver the form by electronic means. Delivery by "electronic means" includes delivery of the form to an electronic mail address at which an applicant or policyholder has consented to receive notices or documents, by posting on an electronic network or site accessible via the Internet, electronic device, or mobile application, at or from which the applicant or policyholder has consented to receive delivery, or by any other delivery method that has been consented to by the applicant or policyholder. Any document delivered electronically satisfies any font, size, color, spacing, or other format requirements that are established for printed documents, provided that the format in the document delivered electronically has reasonably similar proportions or emphasis for the characters relative to the rest of the electronic document. The applicant shall complete, date, and sign the form and return the form to the insurer within 30 days after receipt ~~thereof~~ of the form. Any signature executed in conformity with the Uniform Electronic Transactions Act in §39A-1-1 et seq. of this code is enforceable as provided by that act. ~~No~~ An insurer or agent ~~thereof~~ of the insurer is not liable for payment of any damages applicable under any optional uninsured or underinsured coverage authorized by §33-6-31 of this code for any incident which occurs from the date the form was mailed or delivered to the applicant until the insurer receives the form and accepts payment of the appropriate premium for the coverage requested ~~therein~~ in the form from the applicant: *Provided*, That if prior to the insurer's receipt of the executed form the insurer issues a policy to the applicant which provides for ~~such~~ the optional uninsured or underinsured coverage, the insurer is liable for payment of claims against ~~such~~ the optional coverage up to the limits provided ~~therefor~~ in such in the policy. The contents of a form described in this section which has been signed by an applicant creates a presumption that ~~such~~ the applicant and all named insureds received an effective offer of the optional coverages described in this section and that ~~such~~ the applicant exercised a knowing and intelligent election or rejection ~~as the case may be~~ of such the offer as specified in the form. ~~Such~~ The election or rejection is binding on all persons insured under the policy.

~~(c) Any insurer who has issued a motor vehicle insurance policy in this state which is in effect on the effective date of this section shall mail or otherwise deliver the form to any person who is designated in the policy as a named insured. A named insured shall complete, date and sign the form and return the form to the insurer within 30 days after receipt thereof. No insurer or agent thereof is liable for payment of any damages in any amount greater than any limits of such coverage, if any, provided by the policy in effect on the date the form was mailed or delivered to such named insured for any incident which occurs from the date the form was mailed or delivered to such named insured until the insurer receives the form and accepts payment of the appropriate premium for the coverage requested therein from the applicant. The contents of a form described in this section which has been signed by any named insured creates a presumption that all named~~

~~insureds under the policy received an effective offer of the optional coverages described in this section and that all such named insured exercised a knowing and intelligent election or rejection as the case may be of such offer as specified in the form. Such election or rejection is binding on all persons insured under the policy.~~

~~(d)(c)~~ Failure of the applicant or a named insured to return the form described in this section to the insurer as required by this section within the time periods specified in this section creates a presumption that ~~such the~~ person received an effective offer of the optional coverages described in this section and that ~~such the~~ person exercised a knowing and intelligent rejection of ~~such the~~ offer. ~~Such The~~ rejection is binding on all persons insured under the policy.

~~(e)(d)~~ The insurer shall make ~~such the~~ forms available to any named insured who requests different coverage limits on or after the effective date of this section. ~~No An~~ insurer is ~~not~~ required to make ~~such the~~ form available or notify any person of the availability of ~~such the~~ optional coverages authorized by this section except as required by this section.

~~(f)(e)~~ Notwithstanding any of the provisions of this article six of this chapter to the contrary, including §33-6-31f of this code, for insurance policies in effect on December 31, 2015, insurers are not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as described in this section on any insurance policy to comply with the amount of the minimum required financial responsibility limits set forth in §17D-4-2(b) of this code. All ~~such~~ offer forms that were executed prior to January 1, 2016, shall remain in full force and effect.

(f) If an insurer offers to place an insured with an affiliate of the insurer, the insurer shall make available a new uninsured and underinsured motorist coverage offer form, in the manner provided by and pursuant to subsections (a) and (b) of this section. A named insured shall complete, date, and sign the form as provided by subsection (b) of this section and return the form to the insurer within 30 days after receipt of the form. If an insured does not return the form within 30 days, then the last form previously signed by the insured for the insurer or any affiliate governs the amount of uninsured and underinsured motorist coverage provided by the newly issuing insurer and remains binding on all persons insured under the policy.

The bill (Eng. Com. Sub. for H. B. 2617), as amended, was then ordered to third reading.

Eng. House Bill 2647, Self Storage Limited License Act.

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

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

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

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-38. Self-Service Storage Limited License Act.

(a) Definitions. For purposes of this section, the following terms have the following meanings:

(1) "Leased space" means the individual storage space at the self-service storage facility which is leased or rented to an occupant pursuant to a rental agreement;

(2) "Location" means any physical location in the State of West Virginia or any website, call center site, or similar location directed to residents of the State of West Virginia;

(3) "Occupant" means a person entitled to the use of a leased space at a self-service storage facility under a rental agreement, or the person's sublessee, successor, or assign;

(4) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility or the owner's agent or any other person authorized to manage the facility or to receive rent from any occupant under a rental agreement;

(5) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles, and household items and furnishings;

(6) "Rental agreement" means any agreement or lease that establishes or modifies the terms, conditions or rules concerning the lawful and reasonable use and occupancy of leased space at a self-service storage facility;

(7) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces, other than storage spaces which are leased or rented as an incident to the lease or rental of residential property or dwelling units, to which the occupants have access for storing or removing their personal property;

(8) "Self-service storage insurance" means personal property insurance offered in connection with and incidental to the lease or rental of leased space at a self-service storage facility that provides coverage to occupants at the self-service storage facility where the insurance is transacted for the loss of or damage to personal property that occurs at that facility or when the property is in transit to or from that facility during the period of the rental agreement; and

(9) "Supervising entity" means a business entity that is a licensed insurance producer or an insurer.

(b) Licensure of owners.

(1) An owner shall hold a limited lines license under this section if the owner sells, solicits, or offers coverage for self-service storage insurance. Notwithstanding any other provision of this section to the contrary, an owner is not required to be licensed solely to display and make available to occupants and prospective occupants brochures and other promotional materials created by or on behalf of an authorized insurer or surplus lines insurer.

(2) A limited lines license issued under this section is limited to authorizing an owner and the owner's employees and authorized representatives to sell, solicit, and offer coverage for self-service storage insurance to occupants.

(3) A limited lines license issued under this section authorizes an owner and the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance coverage at each location at which the owner conducts business.

(4) An owner shall maintain, and share with its supervising entity, a list of all locations in this state at which self-service storage insurance is offered on its behalf. The supervising entity shall submit the list to the Insurance Commissioner within 30 days upon request.

(5) An owner and its employees and authorized representatives are not subject to the agent pre-licensing education, examination, or continuing education requirements of this article.

(c) Requirements for Sale of Self-Service Storage Insurance.

(1) At every location where self-service storage insurance is offered, the owner shall make brochures or other written or electronic materials available to occupants which:

(A) Disclose that self-service storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(B) State that the enrollment by the occupant for the self-service storage insurance coverage offered by the owner is not required in order to lease or rent leased space from the owner;

(C) Provide the actual terms of the self-service storage insurance coverage, or summarize the material terms of the insurance coverage, including:

(i) The identity of the insurer;

(ii) The identity of the supervising entity;

(iii) The amount of any applicable deductible and how it is to be paid;

(iv) Benefits of the coverage; and

(v) Key terms and conditions of coverage;

(D) Summarize the process for filing a claim;

(E) State that the occupant may cancel enrollment for the self-service storage insurance coverage at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

(2) Self-service storage insurance may be provided under an individual policy or under a commercial, corporate, group, or master policy.

(3) Eligibility and underwriting standards for occupants electing to enroll in coverage shall be established for each self-service storage insurance program.

(d) Authority of owners.

(1) The employees and authorized representatives of owners may sell, solicit, and offer self-service storage insurance to occupants and are not subject to licensure as an insurance producer under this article provided that:

(A) The owner obtains a limited lines license to authorize the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance;

(B) The insurer issuing the self-service storage insurance appoints a supervising entity to supervise the administration of the program including development of a training program for

employees and authorized representatives of the owner who sell, solicit, or offer self-service storage insurance. The training required by this subdivision shall comply with the following:

(i) The training shall be delivered to all employees and authorized representatives of the owner who sell, solicit, or offer self-service storage insurance;

(ii) The training may be provided in electronic form. However, if provided in an electronic form the supervising entity shall implement a supplemental education program regarding the self-service storage insurance that is provided and overseen by licensed employees of the supervising entity; and

(iii) Each employee and authorized representative selling, soliciting, or offering self-service storage insurance shall receive basic instruction about the self-service storage insurance offered to occupants and the disclosures required under paragraph (C) of this subdivision.

(C) An employee or authorized representative of an owner does not advertise, represent, or otherwise hold himself or herself out as a licensed insurance producer, unless so licensed;

(D) An employee or authorized representative of an owner is compensated based primarily on the number of occupants enrolled for self-service storage insurance coverage. Employees and authorized representatives may receive compensation for enrolling occupants for self-service storage insurance coverage as long as the compensation for those activities is incidental to their overall compensation;

(2) The charges for self-service storage insurance coverage may be billed and collected by the owner. Any charge to the occupant for coverage that is not included in the cost associated with the lease or rental of leased space shall be separately itemized on the occupant's bill. If the coverage is included in the lease or rental of leased space, the owner shall clearly and conspicuously disclose to the occupant that the self-service storage insurance coverage is included with the lease or rental of leased space. An owner billing and collecting the charges is not required to maintain the funds in a segregated account, provided that the owner is authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the supervising entity or insurer within 60 days of receipt. All premiums received by an owner from an occupant for self-service storage insurance shall be considered funds held by the owner in a fiduciary capacity for the benefit of the insurer. Owners may receive compensation for billing and collection services.

(e) Suspension of Privileges.

(1) If an owner or its employee or authorized representative violates any provision of this section, the commissioner may do any of the following:

(A) After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000 in the aggregate for such conduct.

(B) After notice and hearing, impose other penalties that the commissioner considers necessary and reasonable to carry out the purpose of this article, including:

(i) Suspending the privilege of transacting self-service storage insurance pursuant to this section at specific business locations where violations have occurred; and

(ii) Suspending or revoking the ability of individual employees or authorized representatives to act under this section.

(2) If a supervising entity is determined by the commissioner to have not performed its required duties under this section or has otherwise violated any provision of this section, it is subject to the administrative actions set forth in §33-12-24 of this code.

Senators Azinger and Tarr respectively requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as they are in the self-storage business.

The Chair replied that any impact on Senators Azinger and Tarr would be as members of a class of persons and that they would be required to vote.

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2647), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

Eng. House Bill 2954, Defining certain terms used in insurance.

Eng. House Bill 2992, Relating to governmental websites.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

And,

Eng. House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

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

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

Eng. Com. Sub. for Senate Bill 60, Licensing practice of athletic training.

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

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

On page six, section three, lines twenty-five and twenty-six, by striking out the following:

“BOC” means National Athletic Trainers’ Association Board of Certification.

“CAATE” means the Commission on Accreditation of Athletic Training Education.;

On page seven, section four, line thirteen, by striking out all of subdivision (3);

And by renumbering the remaining subdivisions;

On page eight, section four, line twenty-two, by striking out all of subdivision (7) and inserting in lieu thereof a new subdivision, designated subdivision (7), to read as follows:

“(7) Complete a criminal background check as required by §30-1D-1;”;

And,

On page fifteen, section eleven, lines twenty-three through twenty-nine, by striking out all of subdivisions (7) and (8) and inserting in lieu the following:

(7) An athletic trainer licensed in another jurisdiction who is forced to leave his or her residence or place of employment due to a declared local, state, or national disaster or emergency and due to the displacement seeks to practice as an athletic trainer. This exemption applies for no longer than 60 calendar days in a calendar year following the declaration of the emergency. The athletic trainer shall notify the board of his or her intent to practice;

(8) Nothing in this article may be construed to prohibit or otherwise limit the use of the term “athletic trainer” in secondary school settings by persons who were practicing athletic training under a West Virginia Board of Education Athletic Certification, provided the practice is in accordance with Board of Education policy in effect prior to July 1, 2011; and

(9) Nothing contained in this article prohibits a person from practicing within his or her scope of practice as authorized by law.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 60) was reported by the Clerk and adopted:

On page fifteen, subdivision (8), after the words “July 1, 2011” by changing the semicolon to a colon and inserting the following proviso: “*Provided further*, That this provision only applies to persons practicing athletic training certified by the West Virginia Board of Education prior to July 1, 2011, and any additional persons practicing athletic training excluding these specified individuals, shall meet the provisions of this article;”.

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

Engrossed Committee Substitute for Senate Bill 60, as amended, was then put upon its passage.

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

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

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

The nays were: None.

Absent: Baldwin and Boley—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 60) passed with its title.

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

The Senate proceeded to the fourth order of business.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 26, Thompson-Lambert Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 26 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying U.S. 19 over Interstate 77 in Mercer County, the “Thompson and Lambert Memorial Bridge”.

Whereas, Tragedy befell Mercer County on August 16, 2018, when the vehicles of three employees of the West Virginia Parkways Authority’s Courtesy Patrol were struck while on duty by a tractor-trailer at mile marker 23 on the West Virginia Turnpike; and

Whereas, Emergency responders pronounced Nathan Thompson, 32, of Princeton, dead at the scene. Mr. Thompson’s nephew, Richard Lambert, 21, of Kegley, died at a Roanoke, Virginia, hospital on the following day. The third victim, Ethan Kestner, 19, also of Princeton, is still recovering from his injuries; and

Whereas, All three young men were known to be good employees of the turnpike authority, as well as decent, law-abiding citizens. Mr. Thompson and Mr. Lambert were both known as beloved family members. Since the time of the tragic accident, the entire Mercer County community has been saddened by the loss of the two young men and united in its thoughts and prayers for the recovery of Mr. Kestner; and

Whereas, All three young men are a special fraternity of employees who are partners in public service. Many public servants toil in often dangerous situations. While they take extraordinary precautions to ensure the safety of themselves and the public they serve, there is always an element of potential danger inherent in any occupation that must be performed in close proximity to large, heavy, fast-moving vehicles; and

Whereas, Partners in public service hope to return home to their families at the end of each duty assignment. When that does not happen, the sadness that ensues is shared by more than just their families and friends; and

Whereas, It is fitting that an enduring memorial be established to commemorate Nathan Thompson and Richard Lambert; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying U.S. 19 over Interstate 77 in Mercer County, the "Thompson and Lambert Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Thompson and Lambert Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

Senate Concurrent Resolution 45, US Army Corporal T-5 Albert John "Engine" Arco Memorial Bridge

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 45 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U.S. 50 in Harrison County, the "U.S. Army Corporal T-5 Albert John "Engine" Arco Memorial Bridge".

Whereas, This year being the 75th anniversary of the D-Day landing in Europe and the 75th anniversary of the beginning of the Battle of the Bulge, it is appropriate and required to honor United States Army Corporal T-5 Albert John "Engine" Arco, who served his country proudly during WW II; and

Whereas, Albert John "Engine" Arco was a 19-year old enlistee in the U.S. Army when, on June 6, 1944, he jumped, in full gear, from an amphibious landing craft into the sea during the Normandy landing, where the waters were covered with the bloodied bodies of his comrades. He

miraculously survived the D-Day landing, during which so many of his comrades were killed, and joined the fight as a heavy machine gunner in a tank destroyer battalion, which led the battle to liberate Sainte-Mère-Église, Carentan, Saint Lô, and other French towns as they rolled toward Paris. He has described the intensity of the battle of Saint Lô, where the sky was dark during the day as a result of American aircraft, and the hail of shrapnel from German anti-aircraft guns, the latter of which killed his captain, who was standing next to him; and

Whereas, Albert John “Engine” Arco’s battalion was instrumental in the liberation of Paris, then humbly adjourned to a nearby park with all other Americans so French General Charles de Gaulle could proudly march into Paris with his troops and declare victory over German troops for the French people. His battalion joined with the Third Army and its commander, General George S. Patton, whom Arco described as, “. . . blood and guts, for sure”, because of the general’s aggressive battle tactics, which caused Arco to wear the same uniform 10 straight months. Albert John “Engine” Arco fought in the Battle of the Bulge, manning a 50-caliber machine gun when the Third Army and General Patton punched through German lines to relieve the American defenders of Bastogne, Belgium, commanded by General Anthony Clement “Nuts” McAuliffe, also a West Virginia native. He told the Veterans History Project that he had many more memories of his service during WWII, most of which were too traumatic to share; and

Whereas, Albert John “Engine” Arco was a lifelong resident of Clarksburg, Harrison County, West Virginia, a graduate of Washington Irving High School, and the retired owner of a Clarksburg landmark, the Red Caboose restaurant, for over 50 years. He always celebrated the D-Day landing each year at the Red Caboose and remained a loyal and active member of VFW Post 573 and American Legion Post 13 until his death on September 14, 2018; and

Whereas, It is fitting that an enduring memorial be established to commemorate Corporal T-5 Albert John “Engine” Arco and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U.S. 50 in Harrison County, the “U.S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the two committee substitutes be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on Health and Human Resources has had under consideration

Senate Concurrent Resolution 41, Requesting study creating paid family and medical leave insurance program.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

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

Your Committee on Education has had under consideration

Senate Concurrent Resolution 49 (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study higher education governance, finance, and any other higher education issues it considers appropriate.

Whereas, House Bill 2815, passed during the 2017 legislative session, required the Higher Education Policy Commission to examine the question of general revenue appropriations to individual higher education institutions per student, and per credit hour, and by other relevant measures at all higher education institutions, including four-year baccalaureate institutions and the community and technical colleges; and

Whereas, Higher education central office staff created a formula for distributing legislative appropriations to the four-year state institutions of higher education, and after a public comment period, created a second modified formula based on comments they received during the public comment period; and

Whereas, In between creation of the first and second formulas for distributing appropriations to the four-year state institutions of higher education, the higher education central office staff also created a formula for distributing legislative appropriations to the community and technical colleges; and

Whereas, None of the aforementioned formulas have been officially adopted or approved by any commission, council, committee, body, or group of any kind; and

Whereas, In May 2017, Governor Jim Justice requested the Higher Education Policy Commission conduct a study to examine the question of how to sustain higher education opportunity in each region of West Virginia; and

Whereas, The Higher Education Policy Commission sought assistance from the National Center for Higher Education Management Services (NCHEMS) to undertake the study; and

Whereas, NCHEMS published its recommendations in a report dated August 6, 2018; and

Whereas, On June 26, 2018, Governor Jim Justice, by executive order, created the Blue Ribbon Commission on Four-Year Higher Education; and

Whereas, The commission was charged with reviewing, studying, and assessing the current state of four-year higher education in the State, including but not limited to: (1) The adequacy of current funding levels for four-year institutions of higher education; (2) the current governance structure relating to four-year institutions of higher education; (3) the role and value of the Higher Education Policy Commission; (4) the identification of bureaucratic inefficiencies that cause a negative impact; (5) measures to be taken to facilitate the long-term viability of higher education delivery in communities across the state; and (6) anything else the commission deems necessary to provide a thorough evaluation in preparation of its report; and

Whereas, The commission's review was limited to four-year higher education and did not include the community and technical colleges; and

Whereas, Community and technical college education is a vital part of ensuring the future economic prosperity of West Virginia and its citizens; and

Whereas, House Bill 3096 and Senate Bill 673, both of which were inspired by the work of the Blue Ribbon Commission, were introduced during the 2019 regular session of the Legislature; and

Whereas, The scale of the changes to the higher education system being contemplated requires a more in-depth review and consideration by the Legislature prior to making substantial statutory changes to the state system of higher education; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study higher education governance, finance, and any other higher education issues it considers appropriate; and, be it

Further Resolved, That the study shall at least include a review of the funding formulas created by the higher education central office staff, the NCHEMS report dated August 6, 2018, the work of the Blue Ribbon Commission on Four-Year Higher Education, any legislation inspired by the work of the Blue Ribbon Commission, input from community and technical college representatives, input from baccalaureate institution representatives, and input and support from higher education central office staff; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 49) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

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

Your Committee on Education has had under consideration

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

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2363, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

With an amendment from the Committee on Education pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Government Organization on March 2, 2019;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Government Organization.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2378, Relating generally to grounds for revocation of a teaching certificate.

And has amended same.

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

And has amended same.

And,

Eng. Com. Sub. for House Bill 2662, Relating to certificates or employment of school personnel.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Eng. Com. Sub. for House Bill 2396, West Virginia Fresh Food Act.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,
Chair.

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

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

Your Committee on Education has had under consideration

Eng. House Bill 2422, Relating to the time for the observation of "Celebrate Freedom Week".

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Health and Human Resources has had under consideration

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

And has amended same.

Eng. Com. Sub. for House Bill 2768, Reducing the use of certain prescription drugs.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2849, Establishing different classes of pharmacy technicians.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2601, Relating to the review and approval of state property leases.

And,

Eng. Com. Sub. for House Bill 3016, Relating to the State Aeronautics Commission.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

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

Eng. Com. Sub. for House Bill 2661, Relating to natural gas utilities.

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

Respectfully submitted,

Randy E. Smith,
Chair.

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

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2674, Creating a student loan repayment program for a mental health provider.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2674) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Health and Human Resources pending.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 2739, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

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

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2816, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

And,

Eng. House Bill 3132, Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on Finance has had under consideration

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

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. House Bill 2850, Relating to qualifications for commercial driver's license.

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

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2934, West Virginia Lottery Interactive Wagering Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2982, Amending and updating the laws relating to auctioneers.

And has amended same.

And,

Eng. House Bill 3141, Requiring capitol building commission authorization for certain renovations.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2853, Establishing the West Virginia Program for Open Education Resources.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 3057, Relating to the Adult Drug Court Participation Fund.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Com. Sub. for House Concurrent Resolution 11, U. S. Army Command Sergeant Major Timothy Allen Bolyard Memorial Bridge.

And,

House Concurrent Resolution 44, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Com. Sub. for House Concurrent Resolution 26, George” Roush Memorial Bridge.

And has amended same.

And,

Com. Sub. for House Concurrent Resolution 32, Requesting the Secretary of the Department of Transportation to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia’s Appalachian Corridor highways.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on Health and Human Resources has had under consideration

House Concurrent Resolution 48, Urging the Commissioner of the Bureau for Public Health to designate Alzheimer’s disease and other dementias as a public health issue.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Michael J. Maroney,
Chair.

The Senate proceeded to the sixth order of business, which agenda includes the making of main motions.

Senator Takubo moved that the Senate reconsider the vote by which in earlier proceedings today it passed

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Takubo, the Senate reconsidered its action by which it adopted Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (*shown in the Senate Journal of today, pages 40 through 42, inclusive*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (Eng. S. B. 668).

Thereafter, at the request of Senator Takubo, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill was reported by the Clerk and adopted:

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

Eng. Senate Bill 668—A Bill to amend and reenact §30-3E-1, §30-3E-3, §30-3E-9, §30-3E-11, §30-3E-12, and §30-3E-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3E-10a, all relating to physician assistants collaborating with physicians in hospitals; requiring written notice to the appropriate licensing board; requiring rulemaking; amending scope of practice; providing for disciplinary proceedings for failure to provide timely notice of termination of practice notification; and specifying practice requirements

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

Engrossed Senate Bill 668, as amended, was then put upon its passage.

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

The nays were: None.

Absent: Baldwin and Boley—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 668) passed with its Senate amended title.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 8 p.m., the Senate adjourned until tomorrow, Wednesday, March 6, 2019, at 11 a.m.

SENATE CALENDAR

**Wednesday, March 06, 2019
11:00 AM**

UNFINISHED BUSINESS

Com. Sub. for S. C. R. 26 - Thompson-Lambert Memorial Bridge

Com. Sub. for S. C. R. 45 - US Army Corporal T-5 Albert John "Engine" Arco Memorial Bridge

Com. Sub. for H. C. R. 11 - U. S. Army Command Sergeant Major Timothy Allen Bolyard Memorial Bridge

Com. Sub. for H. C. R. 26 - George" Roush Memorial Bridge - (Com. amend. pending)

Com. Sub. for H. C. R. 32 - Requesting the Secretary of the Department of Transportation to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia's Appalachian Corridor highways - (Com. amends. and title amend. pending)

H. C. R. 44 - U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge

H. C. R. 48 - Urging the Commissioner of the Bureau for Public Health to designate Alzheimer's disease and other dementias as a public health issue

THIRD READING

Eng. Com. Sub. for S. B. 150 - Budget Bill

Eng. H. B. 2009 - Creating a new category of Innovation in Education grant program

Eng. Com. Sub. for H. B. 2020 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution

Eng. Com. Sub. for H. B. 2083 - Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license - (Com. title amend. pending)

Eng. H. B. 2515 - Exempting the sale and installation of mobility enhancing equipment from the sales and use tax

Eng. H. B. 2530 - Creating a voluntary certification for recovery residences - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2550 - Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program (original similar to SB602)

Eng. Com. Sub. for H. B. 2617 - Relating to the form for making offer of optional uninsured and underinsured coverage by insurers - (Com. title amend. pending)

Eng. H. B. 2647 - Self Storage Limited License Act - (Com. title amend. pending)

SECOND READING

- Eng. Com. Sub. for H. B. 2001 - Relating to exempting social security benefits from personal income tax - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2363 - Relating to the Upper Kanawha Valley Resiliency and Revitalization Program - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2420 - Establishing the Mountaineer Trail Network Recreation Authority - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2452 - Creating the West Virginia Cybersecurity Office
- Eng. H. B. 2480 - Relating to the regulation of an internationally active insurance group - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2579 - Relating to the collection of tax and the priority of distribution of an estate or property in receivership (original similar to SB406)
- Eng. H. B. 2667 - Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections
- Eng. Com. Sub. for H. B. 2703 - Relating to refunds of excise taxes collected from dealers of petroleum products - (Com. amend. pending)
- Eng. H. B. 2853 - Establishing the West Virginia Program for Open Education Resources
- Eng. H. B. 2954 - Defining certain terms used in insurance - (Com. amend. and title amend. pending) (original similar to SB591)
- Eng. H. B. 2992 - Relating to governmental websites - (Com. amend. pending)
- Eng. H. B. 3135 - Expiring funds to the balance of the Department of Commerce, Development Office - (Com. amend. and title amend. pending)
- Eng. H. B. 3144 - North Central Appalachian Coal Severance Tax Rebate Act - (Com. amend. pending)

FIRST READING

- Eng. Com. Sub. for H. B. 2004 - Providing for a program of instruction in workforce preparedness - (Com. amends. and title amend. pending)
- Eng. H. B. 2209 - Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician
- Eng. Com. Sub. for H. B. 2378 - Relating generally to grounds for revocation of a teaching certificate - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2396 - West Virginia Fresh Food Act - (Com. amend. and title amend. pending)
- Eng. H. B. 2412 - Relating to criminal acts concerning government procurement of commodities and services - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2422 - Relating to the time for the observation of "Celebrate Freedom Week"

Eng. Com. Sub. for H. B. 2524 - Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances - (Com. amends. pending)

Eng. Com. Sub. for H. B. 2541 - Requiring certain safety measures be taken at public schools - (Com. amends. pending)

Eng. Com. Sub. for H. B. 2601 - Relating to the review and approval of state property leases

Eng. Com. Sub. for H. B. 2661 - Relating to natural gas utilities

Eng. Com. Sub. for H. B. 2662 - Relating to certificates or employment of school personnel - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2715 - Relating to Class Q special hunting permit for disabled persons

Eng. H. B. 2716 - Relating to vessel lighting and equipment requirements

Eng. H. B. 2739 - Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board

Eng. Com. Sub. for H. B. 2768 - Reducing the use of certain prescription drugs - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2809 - Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area

Eng. H. B. 2816 - Removing the terms "hearing impaired," "hearing impairment," and "deaf mute" from the West Virginia Code and substituting terms

Eng. Com. Sub. for H. B. 2831 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state - (Com. amends. pending)

Eng. H. B. 2846 - Designating a "Back the Blue" plate in support of law-enforcement personnel - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2849 - Establishing different classes of pharmacy technicians - (Com. amends. pending)

Eng. H. B. 2850 - Relating to qualifications for commercial driver's license

Eng. H. B. 2926 - Requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans

Eng. H. B. 2934 - West Virginia Lottery Interactive Wagering Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2982 - Amending and updating the laws relating to auctioneers - (Com. amends. pending) (original similar to SB619)

Eng. Com. Sub. for H. B. 3016 - Relating to the State Aeronautics Commission

Eng. Com. Sub. for H. B. 3057 - Relating to the Adult Drug Court Participation Fund

Eng. H. B. 3132 - Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment

Eng. H. B. 3141 - Requiring capitol building commission authorization for certain renovations - (Com. amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Wednesday, March 6, 2019

9 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Government Organization	(Room 208W)