

# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-FOURTH LEGISLATURE**

Regular Sixty-Day Session, 2020

**VOLUME II**



NOTE: The second volume continues with Journal proceedings proper (page 1049) of February 17 and concludes with the proceedings of March 4 ending with page 2102 of the Regular Session.



(c) The Lottery Commission may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the Lottery Commission shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(d) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the Lottery Commission shall permit the applicant to apply for initial licensure if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the Lottery Commission.

(e) An individual with a criminal record who has not previously applied for licensure may petition the Lottery Commission at any time for a determination of whether the individual's criminal

record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the Lottery Commission to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The Lottery Commission shall provide the determination within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its costs for each petition.

(e)(f) In the case of an applicant for a sports wagering license, the commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if an applicant has not met the requirements of this section or any other provision of this article.

## **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

### **§29-25-13. False statements on applications; other license or registration requirements and prohibitions.**

(a) Any person who knowingly makes a false statement on an application is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail for not more than six months except that in the case of a person other than a natural person, the amount of the fine imposed may not be more than \$25,000.

(b) The commission may not grant a license or registration pursuant to the provisions of this article if there is substantial evidence that the applicant:

(1) Has knowingly made a false statement of a material fact to the commission;

(2) Has been suspended from operating a gambling game, gaming device, or gambling operation in another jurisdiction by a board or other governmental authority of that jurisdiction having responsibility for the regulation of gambling or gaming activities;

(3) Has been convicted of a felony, ~~an offense of moral turpitude~~ a gambling offense, a theft or fraud offense or has

otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order: Provided, That the Lottery Commission shall apply §29-25-13(d) and §29-25-13(e) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the license being sought;

(4) Has failed to meet any monetary obligation in connection with a gaming facility or any other form of gaming; or

(5) In the case of an applicant for a license to operate a gaming facility or to supply a gaming facility:

(A) Has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed;

(B) Is not the true owner of the enterprise or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in such enterprise; or

(C) Is a corporation and five percent or more of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is issued unless the contract or option was disclosed to and approved by the commission.

(c) In addition to any other grounds specified in this article, and subject to the hearing provisions of §29-25-17 of this code, in the case of a license to operate a gaming facility the commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee or any controlling person of the applicant or licensee knowingly employs an individual in a senior management position who has been convicted of a felony, bearing a rational nexus to the license, under the laws of this state, another state, a territory of the United States, or the United States or employs any individual in a senior management position who has had a license relating to the operation of a gaming facility revoked by this state or any other state: Provided, That the Lottery Commission shall apply §29-25-13(d) and §29-25-13(e) of this code in determining whether an

applicant's prior criminal convictions bear a rational nexus to the license being sought.

(d) The Lottery Commission may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the Lottery Commission shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(e) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the Lottery Commission shall permit the applicant to apply for initial licensure if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the Lottery Commission.

(f) An individual with a criminal record who has not previously applied for licensure may petition the Lottery Commission at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the Lottery Commission to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The Lottery Commission shall provide the determination within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its costs for each petition.

~~(d)~~(g) Character references may be required of persons licensed, but the character reference may not be obtained from persons in the same or similar occupations or professions in other states.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 17A. WEST VIRGINIA SAFE MORTGAGE LICENSING ACT.

#### §31-17A-5. Issuance of license.

(a) The commissioner may not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

~~(a)~~(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of the revocation may not be considered a revocation.

~~(b)~~(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court: *Provided*, That any pardon of a conviction may not be a conviction for purposes of this subsection: *Provided, however*, That the commissioner shall apply §31-17A-5(b) and §31-17A-5(c) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the license being sought;

~~(1)~~(A) During the ~~seven-year~~ five-year period preceding the date of the application for licensing and registration; or

~~(2)~~(B) At any time preceding the date of application if the ~~felony involved an act of fraud, dishonesty or a breach of trust, or money laundering~~ crime bears a rational nexus to the license being sought.

~~(e)~~(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this article.

For purposes of this subsection a person has shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition. The commissioner shall not use a credit score as the sole basis for license denial. A determination that an individual has not shown financial responsibility may include, but not be limited to:

~~(1)~~(A) Current outstanding judgments, except judgments solely as a result of medical expenses;

~~(2)~~(B) Current outstanding tax liens or other government liens and filings;

~~(3)~~(C) Foreclosures within the past three years; and

~~(4)~~(D) A pattern of seriously delinquent accounts within the past three years.

~~(d)~~(4) The applicant has completed the pre-licensing education requirement described in §31-17A-6 of this code.

~~(e)~~(5) The applicant has passed a written test that meets the test requirement described in §31-17A-7 of this code.

~~(f)~~(6) The applicant has met the surety bond requirement as required pursuant to 31-17A-13 of this code.



(b) The commissioner may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the commissioner shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(c) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the commissioner shall permit the applicant to apply for initial licensure if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the commissioner.

(d) An individual with a criminal record who has not previously applied for licensure may petition the commissioner at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition

shall include sufficient details about the individual's criminal record to enable the commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The commissioner shall provide the determination within 60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.

**CHAPTER 32A. LAND SALES; FALSE ADVERTISING;  
ISSUANCE AND SALE OF CHECKS, DRAFTS, MONEY  
ORDERS, ETC.**

**ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY  
TRANSMISSION SERVICES, TRANSPORTATION, AND  
CURRENCY EXCHANGE.**

**§32A-2-8. Qualifications for license or renewal of license.**

(a) The commissioner may issue a license to an applicant only upon first determining that the financial condition, business experience, and character and general fitness of an applicant are such that the issuance of the license is in the public interest: Provided, That the commissioner shall apply §32A-2-8(f) and §32A-2-8(g) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the license being sought.

(b) An applicant for a license shall agree in writing to comply with the currency reporting and record-keeping requirements of 31 U.S.C. §5313, as well as those set forth in 31 C.F.R. Chapter X and any other relevant federal law.

(c) A person is not eligible for a license or shall surrender an existing license if, during the previous ~~ten~~ five years:

(1) The person or a principal of the person, ~~if~~ of a business:

(A) Has been convicted of a felony or a crime involving fraud, or ~~deceit, or moral turpitude~~ under the laws of this state, any other state, or the United States;

(B) Has been convicted of a crime under the laws of another country that involves fraud ~~or~~ deceit ~~or moral turpitude~~ or would be a felony if committed in the United States; or

(C) Has been convicted under a state or federal law relating to currency exchange or transmission or any state or federal monetary instrument reporting requirement; or

(2) The person, a principal of the person, or the spouse of the person or a principal of the person has been convicted of an offense under a state or federal law relating to drug trafficking, money laundering, or a reporting requirement of the Bank Secrecy Act, 12 U.S.C. §1951 *et seq.*, as amended.

(d) The commissioner will review the application to determine whether the applicant:

(1) Has recklessly failed to file or evaded the obligation to file a currency transaction report as required by 31 U.S.C. §5313 during the previous three years;

(2) Has recklessly accepted currency for exchange, transport, or transmission during the previous three years in which a portion of the currency was derived from an illegal transaction or activity;

(3) Will conduct its authorized business within the bounds of state and federal law, including, but not limited to, §31D-15-1501 of this code;

(4) Warrants the trust of the community;

(5) Has and will maintain a minimum tangible net worth of \$50,000 computed according to generally accepted accounting principles as shown by the most recent audited financial statement filed with and satisfactory to the commissioner, and in addition has and will maintain a minimum tangible net worth of \$25,000, computed according to generally accepted accounting principles for each office or delegate location other than its principal office at which its licensed business is transacted, except that an applicant for a license or renewal of a license may not be required by this article to maintain a tangible net worth of more than \$1 million,

computed according to generally accepted accounting principles; and

(6) Does not owe delinquent taxes, fines, or fees to any local or state taxing authority or governmental agency, department, or other political subdivision of this state.

(e) A person is not eligible for a license, and a person who holds a license shall surrender the license to the commissioner, if the person or a principal of the person has at any time been convicted of:

(1) A felony involving the laundering of money that is the product of or proceeds from criminal activity under chapter 61 of this code, or a similar provision of the laws of another state or the United States; or

(2) A felony violation of 31 U.S.C. §5313 or 5324, or a rule adopted under those sections.

(f) The commissioner may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the commissioner shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(g) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a

prior criminal conviction, the commissioner shall permit the applicant to apply for initial licensure if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the commissioner.

(h) An individual with a criminal record who has not previously applied for licensure may petition the commissioner at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The commissioner shall provide the determination within 60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.

~~(f)~~(i) Before approving an application for a license of an applicant who has less than one year's experience in the proposed business governed by this article as a regulated entity in another state, or whose license has been suspended or revoked by another state, the commissioner may, in his or her discretion, conduct an on-site investigation of an applicant at the sole expense of the applicant and may require the applicant to pay a nonrefundable payment of the anticipated expenses for conducting the investigation. Failure to make the payment or cooperate with the investigation is grounds for denying the application.

**CHAPTER 33. INSURANCE.****ARTICLE 13C. VIATICAL SETTLEMENTS ACT.****§33-13C-3. License and bond requirements.**

(a)(1) A person may not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the commissioner.

(2)(A) An insurance producer who is authorized to sell life insurance in this state pursuant to a resident or nonresident license issued in accordance with the provisions of §33-12-1 *et seq.* of this code may operate as a viatical settlement broker without obtaining a license pursuant to this section if the viatical settlement activities of the producer are incidental to the producer's insurance business activities.

(B) The insurer that issued the policy being viaticated is not responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

(3) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

(b) Application for a viatical settlement provider or viatical settlement broker license and for renewals of the licenses shall be made in the manner prescribed by the commissioner and shall be accompanied by fees established in legislative rules, including emergency rules, promulgated by the commissioner.

(1) The commissioner may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the commissioner shall consider at a minimum:

(A) The nature and seriousness of the crime for which the individual was convicted;

(B) The passage of time since the commission of the crime;

(C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(D) Any evidence of rehabilitation or treatment undertaken by the individual.

(2) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, unless that conviction is a felony pursuant to §33-13C-14 of this code, the commissioner shall permit the applicant to apply for initial licensure if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the commissioner.

(3) An individual with a criminal record who has not previously applied for licensure may petition the commissioner at any time for a determination of whether the individual's criminal record will

disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The commissioner shall provide the determination within 60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.

(c) The commissioner has the authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member of the entity who may materially influence the applicant's conduct meets the standards of this article.

(d) The commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

(1) If a viatical settlement provider, has provided a detailed plan of operation;

(2) Is competent and trustworthy and acts in good faith in the capacity of a licensee;

(3) Has a good business reputation and is qualified by experience, training, or education as a viatical settlement provider or broker;

(4) Has demonstrated evidence of financial responsibility, in a format prescribed by the commissioner, by possessing a minimum equity of not less than \$250,000 in cash or cash equivalents reflected in the applicant's audited financial statements or through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state in the amount of \$250,000: *Provided*, That the commissioner may permit an applicant for a broker's license to demonstrate evidence of financial responsibility through



a policy of insurance covering legal liability resulting from erroneous acts or failure to act in their capacity as a viatical settlement broker and inuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than \$100,000 and \$300,000 in the aggregate for all occurrences within one year. Any surety bond issued pursuant to this subdivision shall be in the favor of this state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the viatical settlement provider or viatical settlement broker. The commissioner shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this paragraph have been filed with a state in which the applicant is licensed as a viatical settlement provider or viatical settlement broker. The commissioner may ask for evidence of financial responsibility at any time he or she considers it necessary.

(5) If a legal entity has provided a certificate of good standing from the state of its domicile; and

(6) Has provided an antifraud plan that meets the requirements of §33-13C-14(g) of this code.

(e) The commissioner may not issue a license to a nonresident applicant unless the applicant files with the commissioner either a written designation of an agent for service of process or the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

(f) A viatical settlement provider or viatical settlement broker shall provide to the commissioner new or revised information about officers, 10 percent or more stockholders, partners, directors, members, or designated employees within 30 days of the change.

(g) An individual licensed as a viatical settlement broker shall complete on a biennial basis 15 hours of training related to viatical settlements and viatical settlement transactions as required by the commissioner. A life insurance producer operating as a viatical

settlement broker pursuant to subdivision (2), subsection (a) of this section is not subject to the requirements of this subsection. Any person failing to meet the requirements of this subsection is subject to the penalties imposed by the commissioner.

#### **§33-13C-4. License revocation and denial.**

(a) The commissioner may refuse to issue, suspend, revoke, place on probation, or refuse to renew the license of a viatical settlement provider or viatical settlement broker if the commissioner finds that:

(1) There was any material misrepresentation in the application for the license;

(2) The licensee or any officer, partner, member, or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent;

(3) The viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) The licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud ~~or moral turpitude~~, regardless of whether a judgment of conviction has been entered by the court: Provided, That the commissioner shall apply §33-13C-3(b) of this code and any relevant legislative rules in determining whether an applicant's prior criminal convictions bear a rational nexus to the license being sought;

(5) The viatical settlement provider has entered into any viatical settlement contract that has not been approved pursuant to this article;

(6) The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;

(7) The licensee no longer meets the requirements for initial licensure;

(8) The viatical settlement provider has assigned, transferred or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this state, viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in Rule 501(a) or Rule 144A promulgated under the Federal Securities Act of 1933, as amended, financing entity, special purpose entity, or related provider trust; or

(9) The licensee or any officer, partner, member, or key management personnel has violated any provision of this article.

(b) The commissioner may suspend, revoke, or refuse to renew the license of a viatical settlement broker or a life insurance producer operating as a viatical settlement broker pursuant to this article if the commissioner finds that the viatical settlement broker or life insurance producer has violated the provisions of this article or has otherwise engaged in bad faith conduct with one or more viators.

(c) If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider, viatical settlement broker, or life insurance producer operating as a viatical settlement broker, the commissioner shall conduct a hearing in accordance with §33-2-13 of this code.

The bill (Eng. H. B. 4353), as amended, was then ordered to third reading.

**Eng. House Bill 4601**, Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

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

**Com. Sub. for Senate Bill 6**, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

**Com. Sub. for Senate Bill 204**, Providing for nonpartisan elections of county prosecuting attorneys.

**Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.

**Senate Bill 652**, Authorizing School Building Authority promulgate legislative rules.

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

**Com. Sub. for Senate Bill 686**, Exempting contract and common carrier laws for certain vehicles.

**Com. Sub. for Senate Bill 719**, Imposing health care-related provider tax on certain health care organizations.

**Senate Bill 740**, Clarifying authorized users of Ron Yost Personal Assistance Services Fund.

**Senate Bill 747**, Requiring Bureau for Public Health develop Diabetes Action Plan.

**Senate Bill 748**, Increasing awareness of palliative care services.

**Senate Bill 767**, Relating to licensure of hospitals.

**Eng. Com. Sub. for House Bill 4026**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

And,

**Eng. House Bill 4501**, Relating to the ability to refuse offenders for commitment to a jail.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Beach and Ihlenfeld.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Beach and Ihlenfeld were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

**Com. Sub. for Senate Bill 285:** Senator Plymale.

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

**Com. Sub. for Senate Bill 29:** Senator Roberts;

**Com. Sub. for Senate Bill 648:** Senator Rucker;

**Senate Bill 767:** Senator Roberts;

**Senate Bill 774:** Senator Plymale;

**Senate Bill 781:** Senators Cline and Stollings;

**Senate Bill 785:** Senator Cline;

**Senate Bill 786:** Senator Cline;

**Senate Bill 788:** Senator Lindsay;

**Senate Bill 790:** Senator Hardesty;

**Senate Bill 791:** Senator Cline;

**Senate Bill 792:** Senators Hardesty, Plymale, Sypolt, Jeffries, and Romano;

**Senate Bill 793:** Senators Cline and Sypolt;

**Senate Bill 794:** Senators Rucker and Cline;

**Senate Bill 795:** Senator Cline;

**Senate Bill 796:** Senator Cline;

**Senate Concurrent Resolution 33:** Senators Lindsay and Jeffries;

**Senate Concurrent Resolution 34:** Senators Lindsay, Stollings, Unger, and Jeffries;

**Senate Concurrent Resolution 35:** Senators Lindsay, Roberts, Stollings, and Romano;

**Senate Concurrent Resolution 36:** Senators Plymale, Lindsay, Stollings, and Jeffries;

**Senate Resolution 41:** Senators Rucker, Plymale, Lindsay, Stollings, Baldwin, and Romano;

**Senate Resolution 42:** Senators Plymale, Lindsay, Sypolt, Stollings, Unger, Baldwin, and Romano;

**Senate Resolution 43:** Senators Rucker, Plymale, Sypolt, Cline, Roberts, Stollings, Unger, and Romano;

And,

**Senate Resolution 44:** Senators Ihlenfeld, Plymale, Palumbo, Baldwin, Jeffries, and Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:18 p.m., the Senate adjourned until tomorrow, Tuesday, February 18, 2020, at 11 a.m.

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## TUESDAY, FEBRUARY 18, 2020

The Senate met at 11:21 a.m.

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

Prayer was offered by Pastor Dave Stauffer, Gateway Christian Church, St. Albans, West Virginia, and State Chaplain of the West Virginia National Guard.

The Senate was then led in recitation of the Pledge of Allegiance to the United States Flag by the Honorable John R. Pitsenbarger, a senator from the eleventh district.

The Senate was next led in the Pledge of Allegiance to the West Virginia Flag by kindergarten students from West Teays Elementary School in Hurricane, West Virginia.

Pending the reading of the Journal of Monday, February 17, 2020,

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

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

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

Development Office (Tax Increment Financing Report) (§7-11B-15)

The Senate proceeded 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 544**, Authorizing pharmacists and pharmacy interns administer vaccines.

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 five, section seven, line one hundred three, by striking out the word “vaccine” and inserting in lieu thereof the word “immunization”;

And,

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

**Eng. Com. Sub. for Senate Bill 544**—A Bill to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating to immunizations; authorizing joint rules regulating the administrations of immunizations; requiring those rules to be based on certain standards; permitting a licensee to perform immunizations based on the Center for Disease Control recommend schedule; requiring written parental permission for immunizations of minors; requiring a prescription for immunization of a minor; and requiring that the joint rules permits a licensee to administer immunizations in accordance with the latest definitive treatment guidelines promulgated by the Center for Disease Control guidelines.

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

Engrossed Committee Substitute for Senate Bill 544, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker,



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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 544) 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. Senate Bill 642**, Correcting incorrect code citation in WV Consumer Credit and Protection Act.

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

**Eng. Com. Sub. for House Bill 2961**—A Bill to amend and reenact §16-1-9, and §16-1-9a of the Code of West Virginia, 1931, as amended, all relating to covered categories of water supply systems, procedures for determining required installations, and customer rights in response to the commissioner's authority to require that certain water supply systems connected to a public water supply to be equipped with a backflow prevention assembly.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

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

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

**Eng. Com. Sub. for House Bill 4067**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-13-3a, relating to crimes against property; creating the crime of theft of rental, leased, leased-purchased, or loaned property; creating certain evidentiary presumptions related to intent; defining “proper notice” for a written demand for return of property; requiring a written demand for return of the property; establishing property replacement value to determine the value of the theft; creating misdemeanor and felony offenses; providing penalties; and, establishing the agreements to which this section applies.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4101**—A Bill to amend and reenact §49-4-604 of the Code of West Virginia, 1931, as amended, relating to requiring a court to verify certain conditions are met before a child who has been removed from a home may be returned to that home.

Referred to the Select Committee on Children and Families.

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

**Eng. Com. Sub. for House Bill 4123**—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-5 of said code, all relating to 911

telecommunication workers; defining terms; providing that emergency telephone systems be staffed with trained individuals; and providing that telecommunication workers be considered first responders.

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

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

**Eng. Com. Sub. for House Bill 4387**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §60A-12-1, §60A-12-2, §60A-12-3, §60A-12-4, §60A-12-5, §60A-12-6, §60A-12-7 and §60A-12-8, all relating to creating the Donated Drug Repository Program; requiring the West Virginia Board of Pharmacy to administer the program; setting forth eligible drugs; setting forth eligible recipients; establishing how the drugs are to be received, handled, stored, dispensed, distributed, and disposed of; permitting a handling fee; defining terms; and permitting rulemaking.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 4546**—A Bill to amend and reenact §18-4-2 of the Code of West Virginia, 1931, as amended, relating to tuberculosis testing for school superintendents; removing requirement for biennial screenings; and adding permissive screenings based upon suspicion of exposure.

Referred to the Committee on Education.

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

**Eng. Com. Sub. for House Bill 4581**—A Bill to amend and reenact §16-49-1, §16-49-2, §16-49-3, §16-49-4, §16-49-5, §16-49-6, §16-49-7, and §16-49-8 of the Code of West Virginia, 1931, as amended; all relating to employment screening; including the screening of West Virginia Department of Health and Human Resources employees in the background check process; and streamlining the variance procedures.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 4666**—A Bill to amend and reenact §8-27-23 of the Code of West Virginia, 1931, as amended, relating to competitive bids for intergovernmental relations and urban mass transportation systems; increasing the contract sum that requires competitive bidding; and providing that competitive bidding is not required by certain urban transit authorities.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 4670**—A Bill to amend and reenact §49-4-725 of the Code of West Virginia, 1931, as amended, relating to the juvenile restorative justice programs; establishing that a juvenile may be diverted to a restorative justice program at any time when beneficial; providing definitions; providing additional elements of a juvenile restorative justice program; establishing that participation in a restorative juvenile justice program is voluntary; establishing that other stakeholders may participate in a restorative justice program; providing that communication between the victim and juvenile, certain evidence based practices, mediation, redress, restitution and sanctions may be included in a restorative justice program; and, providing that

status offenses may be an considered in a juvenile restorative justice program as necessary or appropriate.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 4955**—A Bill to amend and reenact §61-7-4 and §61-7-4a of the Code of West Virginia, 1931, as amended, all relating to reducing the cost of the fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons; eliminating the partial fee deposits in the Courthouse Facilities Improvement Fund for both licenses; reducing the fee deposits for both licenses into the Concealed Weapons License Administration Fund, and exempting honorably discharged veterans of the armed forces of the United States from payment of certain fees for state licenses to carry concealed deadly weapons.

Referred to the Committee on Finance.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 17, 2020, he had approved **Enr. Committee Substitute for House Bill 4042**, **Enr. Committee Substitute for House Bill 4091**, and **Enr. House Bill 4496**.

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 18th day of February, 2020, 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. 2602**), Including possession of known stolen property in the offense of receiving or transferring stolen property.

(**Com. Sub. for H. B. 2924**), Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website.

And,

(**Com. Sub. for H. B. 4129**), Relating to adoption.

Respectfully submitted,

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

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

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

**Com. Sub. for Senate Bill 130** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-5-2, §17C-5-2a, §17C-5-2b, §17C-5-4, §17C-5-7, and §17C-5-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17C-5-7a; to amend and reenact §17C-5A-1, §17C-5A-1a, and §17C-5A-3 of said code; to amend said code by adding thereto a new section, designated §17C-5A-2b; and to amend said code by adding thereto a new section, designated §17C-5C-1a, all relating generally to the procedures for revocation or suspension of a person's license to operate a motor vehicle for offenses involving driving under the

influence of alcohol, controlled substances, or drugs; defining terms; transferring authority for hearing certain matters related to revocations or suspensions of licenses from the Office of Administrative Hearings to the courts; establishing mandatory license revocation or suspension periods for individuals convicted of certain offenses; authorizing alternate revocation or suspension periods conditioned upon participation in Motor Vehicle Alcohol Test and Lock Program for certain offenses; establishing mandatory license revocation or suspension periods for individuals upon second and subsequent convictions for certain offenses; clarifying what constitutes a second or subsequent offense for purposes of criminal penalties and license revocations and suspensions; clarifying that certain offenses involving driving under the influence take place only when the operator is upon a public highway or private road; clarifying the term “in this state” for purposes of enforcement of certain serious traffic crimes; requiring the Commissioner of the Division of Motor Vehicles to revoke a person’s license upon conviction of certain offenses or for refusal to submit to a secondary chemical test in certain circumstances; requiring individuals whose licenses have been revoked or suspended upon conviction of certain offenses to complete the comprehensive safety and treatment program before the license can be reinstated; requiring driver consent to participation in Motor Vehicle Alcohol Test and Lock Program; requiring deferral program for certain first offenses to be completed within one year; prohibiting a secondary test of blood without consent absent issuance of a search warrant; requiring that a person arrested for driving under the influence be provided with certain verbal and written warnings prior to submitting to a secondary chemical test; requiring an officer to 15 minutes before a refusal to submit to a secondary chemical test is considered final; requiring that, following an individual’s refusal to submit to a secondary chemical test, an arresting officer submit a sworn statement containing certain information to Commissioner of the Division of Motor Vehicles and the court; providing for a hearing before the court to contest a documented refusal to submit to a secondary chemical test; providing minimum license revocation periods for refusal to submit to a secondary chemical test; directing the Bureau for Public Health to make reports and recommendations

on the levels of drugs and controlled substances to be used as evidence in certain criminal proceedings; limiting the administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2020; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's license on the basis of driving under the influence or refusal to submit to a secondary test absent direction from court; requiring the Commissioner of the Division of Motor Vehicles to provide certain records to the court following a person's arrest; providing a procedure to correct a license revocation or suspension based on mistaken driver identity; providing that a plea of no contest constitutes a conviction; requiring the clerk of the court to transmit a copy of an order related to revoking or suspending a person's license to the Division of Motor Vehicles; directing that a copy of a license revocation or suspension order to be sent to the person whose license is being revoked or suspended by certified mail; providing that revocation for refusal to submit to secondary chemical test run concurrently with other revocation or suspension imposed as a result of an offense that led to the arrest; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful completion thereof; requiring the Office of Administrative Hearings to dispose of all matters pending before it by a certain date; establishing a timeline for jurisdiction of matters currently filed in the Office of Administrative Hearings to transfer to the courts; requiring that matters related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be dismissed; requiring that matters not related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be transferred to a circuit court according to certain procedures; terminating the Office of Administrative Hearings by a certain date; eliminating obsolete language; providing internal effective dates; and making technical corrections.

And,



**Senate Bill 253**, Providing for fair pay and maximized employment of disabled persons.

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

**Com. Sub. for Senate Bill 253** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10P-1, §18-10P-2, §18-10P-3, and §18-10P-4, all relating to wages of persons with disabilities; initiating a State Employment First Policy to facilitate integrated employment of disabled persons; providing legislative findings; defining terms; establishing a taskforce to develop a State Employment First Policy; and providing for implementation of the State Employment First Policy.

With the recommendation that the two committee substitutes do pass; but under the original double committee references 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 references of the bills contained in the foregoing report from the Committee on the Judiciary.

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

Your Committee on Economic Development has had under consideration

**Senate Bill 521**, Creating Tax and Economic Incentives Review Committee.

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

**Com. Sub. for Senate Bill 521** (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-9A-1, §5-9A-2, §5-9A-3, and §5-9A-4, all relating to job creation and economic incentives; providing the Secretary of Commerce, or his or her designees, may review all tax and economic incentives; providing guidelines for the review of incentives; requiring reports; providing confidentiality provisions; and defining terms.

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

Respectfully submitted,

Chandler Swope,  
*Chair.*

The bill (Com. Sub. for S. B. 521), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 651**, Relating to definition of “mortgage loan originator”.

And,

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 660**, Regulating electric bicycles.

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

**Com. Sub. for Senate Bill 660** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17A-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-1-1 of said code; to amend and reenact §17C-1-5a of said code; to amend said code by adding thereto a new section, designated §17C-1-70; and to amend said code by adding thereto a new section, designated §17C-11-8, all relating to electric bicycles; defining terms; excluding electric bicycles from registration, title, financial liability, and driver's license requirements; providing electric bicycle general use regulations; providing the operator of an electric bicycle has the same rights and duties as the operator of a bicycle; providing the use of an electric bicycle may be restricted by an entity having jurisdiction over a bicycle path or trail; and providing for helmet use requirements and class use restrictions for a person under 15 years of age.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 710**, Establishing pilot program to evaluate telemedicine health services.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Health and Human Resources.

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 40** (originating in the Committee on Natural Resources)—Requesting the Joint Subcommittee on Parks, Recreation, and Natural Resources study establishing and expanding a statewide system of greenways and trails for recreational and conservation purposes.

Whereas, In order to recognize the benefits of the outdoor areas of West Virginia, and in order to conserve, develop, and use the natural resources of this state for healthful and recreational purposes, the purpose of this study is to determine the means and procedures for establishing and expanding a statewide system of greenways and trails for recreational and conservation purposes which will serve to implement the concepts of ecosystems management while providing, where appropriate, recreational opportunities, including, but not limited to, equestrian activities, hiking, bicycling, canoeing, kayaking, jogging, and historical and

archaeological interpretation, thereby improving the health and welfare of the people; and

Whereas, The further purpose of this study is to determine the means and procedures for establishing a statewide system of greenways and trails to provide open space benefiting environmentally sensitive lands and wildlife and providing people with access to healthful outdoor activities; and

Whereas, The further purpose of this study is to determine the means and procedures to acquire or designate lands and waterways to facilitate the establishment of a statewide system of greenways and trails; to encourage the multiple use of public rights-of-way and use to the fullest extent existing and future scenic roads, highways, park roads, parkways, greenways, trails, and national recreational trails; to encourage the development of greenways and trails by counties, cities, special districts, and nongovernmental organizations to assist in such development by any means available; to coordinate greenway and trail plans and development by local governments with one another and with the state government and federal government; to encourage, whenever possible, the development of greenways and trails on federal lands by the federal government; and to encourage the owners of private lands to protect the existing ecological, historical, and cultural values of their lands, including those values derived from working landscapes; and

Whereas, The further purpose of this study is to determine the means and procedures for locating greenways and trails on public lands and waterways and, subject to the written agreement of the private landowner, on private lands, and to determine public access to same; and

Whereas, The further purpose of this study is to determine the means and procedures for gathering information for the purpose of the identification of lands and waterways, both public and private, that are suitable for greenways and trails for the purposes of setting priorities for acquisition, planning, and management of public lands and waterways for use as greenways and trails; and identifying private lands which are eligible for designation as part

of the greenways and trails system and are thereby eligible for incentives; and

Whereas, The further purpose of this study is to determine the means and procedures to authorize the Division of Natural Resources, together with other agencies of this state and all counties, municipalities, and special districts of this state, to spend public funds for purposes of planning, developing, operating, and maintaining the statewide greenways and trails system and to accept gifts and grants of funds, property, or property rights from public or private sources to be used for such purposes; and

Whereas, In recognition of the significant economic benefit of nature-based recreation and the contributions to the state's economy that arise from the creation and completion of the Great Eastern Trail which connects to the Appalachian Trail and other trails and greenways throughout the state, the further purpose of this study is to determine the means and procedures to complete the establishment of the trail in a permanent location; to encourage all state, regional, and local agencies that acquire lands to include in their land-buying efforts the acquisition of enough legal interest in the lands over which the trail passes to ensure its continued existence in a permanent location; to consider the inclusion of private funds used to supplement the state's contribution in its efforts to acquire fee or less-than-fee interests in lands that contain designated portions of the trail; to encourage private landowners to continue to allow the use of private property for trail purposes through existing and future incentives and liability protection; and; to encourage state and local agencies with economic and ecotourism development responsibilities to recognize the importance of the trail in bringing nature-based tourism to local communities along the trail route and to support acquisition and development activities for completion of the trail in a permanent location; and

Whereas, The further purpose of this study is to consider the compatibility of various uses of greenways and trails with one another and with the intended purposes of a piece of property; and

Whereas, The further purpose of this study is to determine the respective roles and responsibilities of existing state agencies and organizations, including but not limited to the Department of Natural Resources, the Department of Highways, the Department of Commerce, and subdivisions thereof, in establishing and managing a statewide system of greenways and trails; and

Whereas, The further purpose of this study is to determine the means and procedures for funding the statewide system of greenways and trails; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Subcommittee on Parks, Recreation, and Natural Resources is hereby requested to study establishing and expanding a statewide system of greenways and trails for recreational and conservation purposes; and, be it

*Further Resolved,* That the Joint Subcommittee on Parks, Recreation, and Natural Resources report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 40) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 41** (originating in the Committee on Natural Resources)—Requesting the Governor take actions necessary for West Virginia to become eligible to join the Outdoor Recreation Industry Confluence of States and become a signatory to the Outdoor Recreation Industry Confluence Accords.

Whereas, The Legislature recognizes the importance and potential of the outdoor recreation industry in West Virginia; and

Whereas, Thirteen states (Colorado, Maine, Michigan, Montana, Nevada, New Mexico, North Carolina, Oregon, Utah, Vermont, Virginia, Washington, and Wyoming) have joined the Outdoor Recreation Industry Confluence of States (Confluence of States) and are signatories to the Outdoor Recreation Industry Confluence Accords (Confluence Accords); and

Whereas, The Confluence Accords provide:

“Preamble:

We, a growing confluence of states with a shared passion for the outdoors and a commitment to cultivating a strong outdoor recreation economy, believe that outdoor recreation is core to the very character and quality of life we should all enjoy.

The outdoor industry is a powerhouse of meaningful job creation, and a driving force of our Nation’s economy. Our industry is an economic multiplier, creating a unique quality of life in rural and urban areas, attracting new businesses and professional talent to our communities.

While each of our states is unique, our shared commitment to facilitating everyone’s love of place through inclusion and diverse outdoor experiences has the power to unify communities, to bridge



societal divides, and to improve the mental and physical health of all people.

The outdoors is the wellspring of adventure, camaraderie, and solace, inspiring us to both explore new places and set down roots. Whereas nature is the backbone of the recreation economy, we are committed to fostering conservation and stewardship values, ensuring environmental quality, and restoring sustainable access to the outdoors for current and future generations.

Therefore, the undersigned representatives for the outdoor recreation sector do hereby adopt and commit our states to the following common principles:

#### CONSERVATION & STEWARDSHIP

Work with the public, private, and nonprofit sectors to advocate for conservation and stewardship of land, air, water, and wildlife, and for public access to them.

Facilitate public-private partnerships to enhance public outdoor recreational access, infrastructure improvements and conservation efforts.

Educate and empower the public on the importance and interrelatedness of a healthy environment, outdoor recreation and a vibrant economy.

#### EDUCATION & WORKFORCE TRAINING

Engage with educators to support environmental and outdoor learning opportunities for early and life-long outdoor activity, career development, and advocacy for outdoor recreation.

Promote workforce training programs for technical training, skill mastery, and business opportunities across the spectrum of outdoor industry careers.

Promote interest, participation, and diversity in the outdoors for all, supporting opportunities for early and life-long outdoor learning.

## ECONOMIC DEVELOPMENT

Collaborate with all stakeholders to establish and improve sustainable outdoor recreation infrastructure and funding.

Engage federal, tribal, state, and local governments, as well as local and regional economic development organizations to attract, retain, and expand business and market the outdoor recreation economy.

Address barriers to businesses' success in the outdoor recreation economy.

## PUBLIC HEALTH & WELLNESS

Address social determinants of health by increasing outdoor recreation opportunities for people of all backgrounds and abilities.

Partner with health & wellness stakeholders to determine shared values and common goals, build relationships, and generate innovative partnerships to fulfill shared visions.

Assist in quantifying impacts of access to outdoor recreation and related social determinants on healthcare outcomes and costs.”; and

Whereas, the Charter of the Confluence of States provides that a state must meet five criteria in order to become eligible to join the Confluence of States and to become a signatory to the Confluence Accords:

“1. State Director. States must appoint or designate a state employee through executive or legislative action, directed to supporting the four pillars and twelve common principles enumerated in The Accords, to represent the outdoor recreation industry sector.

2. New Role or Charter. These staff members may be appointed with the above charge as a new director or equivalent executive leader, or existing staff or advisors may be designated through a new organizational charter or mission which intentionally expands

the representative's role to include stewardship of the state's outdoor recreation sector.

3. Public Declaration. For the offices to be visible and accountable to their constituents, creation of new offices, appointment of state employee and/or designation of existing state employee must be made through a durable and public declaration including, but not limited to, executive order, enabling legislation, gubernatorial press release, or similar policy actions.

4. Executive Access. Each state's staff member representing the outdoor recreation sector must have reasonable and timely access to their state's Governor such that the endorsement of coordinated actions by the Confluence of States carries the weight not only of the staff member, but also the informed backing of their state government.

5. Budget and Resources. These state staff members must be endowed with a budget that includes necessary resources to travel and engage with both outdoor recreation constituents within their respective states and other Confluence States to advocate for the outdoor recreation industry both locally and nationally.”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Governor take actions necessary for West Virginia to become eligible to join the Outdoor Recreation Industry Confluence of States and become a signatory to the Outdoor Recreation Industry Confluence Accords; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution the Governor of West Virginia.

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,

Bill Hamilton,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 41) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4149**, Relating to insurance.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

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

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4359**, Increasing the filing fees for insurers.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

Senator Hamilton, 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 4515**, Relating to wildlife resources, eligibility for license or permit application.

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

Respectfully submitted,

Bill Hamilton,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

Senator Roberts offered the following resolution:

**Senate Resolution 46**—Congratulating the Victory Baptist Academy volleyball team for winning the 2019 West Virginia Christian Education Association state volleyball tournament.

Whereas, The Victory Baptist Academy volleyball team has been a dominant force on the court in recent years and 2019 proved to be no exception, as the team won their third consecutive West Virginia Christian Education Association state volleyball tournament; and

Whereas, The Victory Baptist Academy volleyball team was led by first year head coach, Janelle Daniels, assisted by

bookkeeper/manager, Braden Daniels, and consisted of players: Seniors—Michaela Belcher, Allison Grose, and Lauren Pauley; juniors—Alena Lambert, Emily Markham, Kendal Vest, Jessica Wood, and Haylee Webb; sophomore—Eliza Stevens; and freshmen—Emma Brush, Evie Dillon, and Molly Ward; and

Whereas, The Victory Baptist Academy volleyball team displayed its talent and strong will for an entire season, and is a shining example of what can be accomplished with hard work, perseverance, and spirit; and

Whereas, The 2019 Victory Baptist Academy volleyball team will be remembered as one of the best volleyball teams in West Virginia sports history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Victory Baptist Academy volleyball team for winning the 2019 West Virginia Christian Education Association state volleyball tournament; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Victory Baptist Academy volleyball team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 39**, US Navy PO1 Jeffrey S. Taylor Memorial Bridge.

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

**Senate Resolution 45**, Congratulating St. Mary's High School golf team for winning 2019 Class A state golf championship.

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

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

On motion of Senator Takubo, at 11:43 a.m., the Senate recessed to present Senate Resolution 45.

The Senate reconvened at 11:49 a.m. and proceeded to the eighth order of business.

**Eng. Senate Bill 572**, Expiring funds from General Revenue and Lottery Net Profits to various accounts.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 572) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 572) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill 717,** Relating generally to adult protective services.

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 this bill pertains to the duties and authority of financial institutions and he serves as a director of a state-chartered 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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 717) passed with its title.

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



**Eng. Senate Bill 725**, Supplemental appropriation to various Department of Education accounts.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 725) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 725) takes effect from passage.

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

**Eng. Senate Bill 778**, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 778) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 778) takes effect from passage.

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

**Eng. Senate Bill 779**, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 779) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 779) takes effect from passage.

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

**Eng. Senate Bill 780**, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 780) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 780) takes effect from passage.

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

**Eng. House Bill 4353**, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making.

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 House Bill 4353 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4353) passed.

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

**Eng. House Bill 4353**—A Bill to amend and reenact §17A-6-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-23-8 of said code; to amend said code by adding thereto a new section, designated §21-1-6; to amend and reenact §21-2-9 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-6 of said code; to amend and reenact §21-16-7 of said code; to amend and reenact §29-22-8 of said code; to amend and reenact §29-22A-7 of said code; to amend and reenact §29-22B-502 of said code; to amend and reenact §29-22C-15 and §29-22C-16 of said code; to amend and reenact §29-22D-10 of said code; to amend and reenact §29-25-13 of said code; to amend and reenact §31-17A-5 of said code; to amend and reenact

§32A-2-8 of said code; and to amend and reenact §33-13C-3 and §33-13C-4 of said code; all relating to the use of post-criminal conduct in professional and occupational initial licensure decision making; creating a rational nexus requirement between prior criminal conduct and initial licensure decision making; providing criteria for commissioners or commissions as licensing authorities to determine whether a criminal conviction bears a rational nexus to an occupation; removing offenses described as one of moral turpitude as a basis for license denial unless the underlying crime bears a rational nexus to the occupation or profession requiring licensure; limiting licensure disqualification; and authorizing persons to petition licensure commissioners or commissions as to whether a person's criminal records precludes licensure.

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

**Eng. House Bill 4601**, Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4601) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 6**, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

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

On motion of Senator Smith, 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:

## **CHAPTER 17. ROADS AND HIGHWAYS**

### **ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

#### **§ 17-2A-6b. Country roads accountability and transparency.**

(a) The Legislature finds that taxpayers should be able to easily access the details of how the state is spending their tax dollars to build and repair state and public roads. The taxpayers should also be able to easily access and compare the budgeted moneys and the performance results that are achieved for those expenditures. It is the intent of the Legislature, therefore, to direct the Auditor to create and maintain a searchable website detailing where, how much, and from what source the taxpayer moneys in state government are expended for payment to third-party vendors for state roads.

(b) No later than July 1, 2020, the Auditor shall develop and make publicly available a searchable website containing, at a minimum, the following information for a given fiscal year, and the three immediately preceding fiscal years, to the extent that the commissioner has the ability to provide the information to the Auditor:

(1) The project number or name for each state road in which moneys have been expended to pay vendors to build, repair or maintain a state road;

(2) The county location for each such project;

(3) The funding source for a given funding action or expenditure to pay vendors;

(4) The budget program or activity related to a given funding action or expenditure;

(5) The name and the address, principal location, or residence of the vendors receiving payment from a given funding action or expenditure; and

(6) Additional information as to the funding action or expenditure the Auditor considers valuable for the public.

(c) For the purposes of this section:

“Auditor” means the State Auditor of West Virginia, or his or her designee appointed to perform the service.

“Funding action or expenditure” includes details on the type of spending to vendors, including, but not limited to, grants, contracts, and any expenditure from the State Road Fund, federal funds, special revenue funds, including any civil contingency or similar fund. Where possible, a hyperlink to the actual grants or contracts shall be provided.

“Funding source” means the state account from which the funding action or expenditure is appropriated.

“Searchable website” means a website that allows the public at no cost to search and aggregate information regarding the state’s budget and spending for state roads.

“Vendor” means any person or entity that is authorized by the State of West Virginia to supply the Division of Highways with commodities or services.



(d) The searchable website shall be updated periodically as new data becomes available and is submitted by the commissioner to the Auditor. The commissioner shall provide to the Auditor, in a format specified by the Auditor, all the data that is required to be included in the searchable website no later than 30 days after the data becomes available to the agency. The Auditor shall provide guidance and specifications to the commissioner to promote compliance with this section. The commissioner and the Auditor shall communicate and cooperate to develop methodologies for the efficient transfer of the data, including, but not limited to, methodologies to convert noncompatible electronic formats of data into data formats that can be reasonably converted and transferred to the website.

(e) The Auditor and the commissioner shall each report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Department of Transportation Accountability as to the status of the website and shall advise the committee and the commission of any issues related to the transfer and receipt of the information from the commissioner to the Auditor in a timely manner as required in this section. The reports shall be submitted at the end of each quarter for the 2020-2021 fiscal year; and annually thereafter, beginning December 1, 2021, and on December 1 of each year thereafter, until the Joint Committee finds that the annual reports are no longer required.

### **ARTICLE 30. ENHANCED ROAD REPAIR AND MAINTENANCE PROGRAM.**

#### **§17-30-1. Legislative finding; purpose.**

The Legislature finds that the Division of Highways, through no fault of its own, struggles to maintain roadways to the expectation of the citizens of this state. The purpose of the Enhanced Road Maintenance Program established in this article is to increase the utilization of private vendor contractors to provide maintenance and road repair services for the Division of Highways in districts where there is an established need so that this state's roads will be properly maintained and usable by the citizens of this state.

**§17-30-2. Establishment of the Enhanced Road Repair and Maintenance Program.**

(a) The Enhanced Road Maintenance Program is created within the Division of Highways, to be administered by the division in accordance with the provisions of this article.

(b) To accomplish the goals of the program, the Division of Highway county supervisor in each county in consultation with the county commission of each county and any currently elected member of the Legislature whose district overlaps any portion of the county may submit to the Division of Highways a list of road repair and maintenance projects in need of repair in their county. These projects should be limited to roads that are classified as nonfederal aid eligible county roads. The projects should be listed in priority order according to Division of Highways average daily traffic counts and the county commission's determination of the roads' level of disrepair, and should be based upon the funds available to the county from the funding formula set forth in §17-30-3 of this code. This request is to be made to the Division of Highways by July 1, 2020, and again by July 1, 2021. The Division of Highways is authorized to award funding for these projects based upon the funding allocation formula set forth in §17-30-3 of this code. This funding would be the total available to all the counties in the district regardless of whether the county submitted a request for road repair or maintenance. Work on all projects is subject to the funding limitations set forth in §17-30-3 of this code.

(c) Following receipt of a priority list from all counties in a district, the Division of Highways shall determine the available funding from the funding formula and ascertain the funding available to address the submitted projects in the district. If funding is insufficient to address all submitted projects, the Division of Highways shall notify all the county commissions in the district of the projects which funding is not sufficient to complete. The funding may only be used for the purposes set forth in this article and for the projects submitted to the Division of Highways.

(d) The Division of Highways shall contract with a private contractor or private contractors to perform nonfederal aid road

repairs and maintenance activities if 70 percent of the core maintenance projects proposed for completion in the previous year have not been completed and based upon the award allocation and for the projects as submitted to the Division of Highways as set forth in subsection (b) of this section. These repairs shall include, but are not limited to, pothole repair, paving, ditching and mowing on and along each district's roadways. For purposes of this article, "district" means one of the management areas of the state, which include one or more counties, established by the Division of Highways, with each district headed by a separate district engineer or manager.

(e) The division shall contract with vendor contractors to complete repair and maintenance activities for any district if 70 percent of the core maintenance projects proposed in that district for completion in the previous year have not been completed. Completion of the project by the vendor is subject, however, to the availability of funds and the availability of acceptable bids from contract vendors. These repairs shall include, but are not limited to, pothole repair, paving, ditching and mowing on and along each district's roadways.

(f) The Division of Highways and applicable district shall ensure that, alongside roads being paved, all drainage work, including any necessary ditching and installation of culverts, if necessary, has been performed in the state's rights-of-way prior to such paving work.

**§17-30-4. Funding for payment of vendor contracts; bidding, contracting and vendor requirements.**

(a) Funds shall be allocated by the West Virginia Commissioner of Highways for the payment of vendor contracts among the districts for repair and maintenance of nonfederal aid roads.

(b) The Division of Highways shall process bids and award contracts in accordance with the current bid and contract review processing requirements of the division.

(c) Notwithstanding any other provision of this code to the contrary, the bidding and vendor contracting process provided for in this article shall be conducted in accordance with the most efficient procedures available to the Division of Highways. The division may only require that the vendor provide the applicable insurance coverage and necessary bond and surety.

(d) Vendor contractors performing work pursuant to a contract as provided in this article shall follow all work, operating, and safety procedures and requirements prescribed by the Division of Highways.

**§17-30-5. Reporting requirements by Division of Highways and Legislative Auditor.**

(a) By November 1, 2020, and on November 1, of each year thereafter, the Division of Highways shall present a report to the Joint Committee on Government and Finance as to the status and progress of the program together with any suggested legislation to address any issues related thereto no later than November of the following fiscal year. After November 2023, such reports will no longer be required.

(b) By December 1, 2020, and by December biennially thereafter, the Legislative Auditor, in a separate audit report, shall review the program to determine efficacy, economic responsibility, and other such factors relating to the program and submit a report of his or her findings, together with any suggested legislation to improve the efficiency and to more economically carry out the purposes of this article.

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

**ARTICLE 1. WORDS AND PHRASES DEFINED.**

**§17C-1-70. Highways other than the national system of interstate and defense highways.**

“Highways other than the national system of interstate and defense highways” means all West Virginia routes, county routes,

local service routes, and other public streets, roadways, or highways in this state that are not also part of a Coal Resource Transportation Road under §17C-17A-1 et seq. of this code or the national system of interstate and defense highways as defined in §17C-1-71 of this code.

**§17C-1-71. National system of interstate and defense highways.**

“National system of interstate and defense highways” means the “Dwight D. Eisenhower National System of Interstate and Defense Highways” described in 23 U.S.C. 103.

**ARTICLE 17. SIZE, WEIGHT, AND LOAD.**

**§17C-17-9a. Gross weight of vehicles and loads on highways other than the national system of interstate and defense highways.**

(a) It is unlawful for any owner, lessee, or borrower of a vehicle or combination of vehicles to operate on any highway other than the national system of interstate and defense highways that vehicle or combination of vehicles with a gross weight in excess of the gross weight for which ~~such the~~ vehicle or combination of vehicles is registered or in excess of any weight limitation set forth in this chapter, whether ~~such the~~ limitation ~~be~~ is specifically stated in this chapter or set by express authority granted this chapter: *Provided*, That if ~~any a~~ vehicle is operated within the tolerances established in this section for the gross weight of that vehicle, then that vehicle ~~shall be deemed~~ is for all purposes ~~to be~~ operating at the gross weight for which it is registered and the registered weight is deemed to include the 10 percent tolerance associated with it under this section.

(b) Subject to the limit ~~upon the weight imposed upon the highway through any one axle as~~ set forth in §17C-17-8 of this code, the total gross weight on vehicles or combination of vehicles operated on any highway other than the national system of interstate and defense highways ~~shall be~~ is as follows:

(1) A single unit truck having one steering axle and two axles in tandem ~~shall be~~ is limited to a maximum gross weight of ~~60,000~~ 70,000 pounds with a tolerance of 10 percent.

(2) A single unit truck having one steering axle and three axles in tridem arrangement ~~shall be~~ is limited to a maximum gross weight of ~~70,000~~ 80,000 pounds with a tolerance of 10 percent.

(3) A single unit truck having one steering axle and four axles in quadem arrangement, ~~shall be~~ a tractor-semitrailer combination with five axles, a tractor-semitrailer combination with six or more axles, a single unit truck having one steering axle and two axles in tandem in combination with a trailer with two axles, and a single unit truck having one steering axle and three axles in tridem in combination with a trailer with two axles, are each limited to a maximum gross weight of ~~73,000~~ 90,000 pounds with a tolerance of 10 percent.

~~(4) A tractor-semitrailer combination with five axles, a tractor-semitrailer combination with six or more axles, a single unit truck having one steering axle and two axles in tandem in combination with a trailer with two axles and a single unit truck having one steering axle and three axles in tridem in combination with a trailer with two axles, shall be limited to a maximum gross weight of 80,000 pounds with a tolerance of ten percent~~

**§17C-17-11a. Authority of Commissioner of the ~~department~~ Division of Highways to increase but not decrease weight limitations upon highways designated by him or her.**

If, in the opinion of the Commissioner of the ~~department~~ Division of Highways, the design, construction, and safety of any highway in this state including the national system of interstate and defense highways and highways other than the national system of interstate and defense highways, or portion thereof, are such that the gross weight limitations prescribed in §17C-17-9 or §17C-17-9a of this code can be increased without undue damage to any such highway, the commissioner may, by order, increase but not decrease the gross weight limitations of vehicles which may be operated upon any such highway, or portion thereof, designated by

him or her in such order and may establish therein the gross weight limitations which shall thereafter be applicable to ~~the~~ any such highway, or portion thereof, so designated by him or her: *Provided*, That the maximum gross weight, including the load, established by the commissioner for any such ~~designated~~ highway, or portion thereof, shall may not exceed 80,000 ~~pounds~~, ~~except as otherwise~~ the gross weight limits provided in this article: *Provided, however*, That no such order of the commissioner shall establish any weight limitation in excess of or in conflict with any weight limitation prescribed by or pursuant to acts of Congress with respect to the national system of interstate and defense highways.

**§17C-17-11d. Establishing maximum road highway weights for highways other than the national system of interstate and defense highways.**

~~Effective July 1, 2004~~, The maximum gross vehicle weight on ~~existing state maintained roads and public highways~~ any highway other than the national system of interstate and defense highways designated for ~~gross weight vehicle load of sixty five thousand pounds, seventy three thousand five hundred pounds and eighty thousand pounds~~ vehicles with a gross weight not exceeding 90,000 pounds shall have a tolerance of 10 percent. All requirements for vehicle design and axle weights otherwise established under this code remain applicable. In no case may the commissioner authorize weight limits on any ~~state maintained road or public highway~~ other than the national system of interstate and defense highways that would jeopardize or otherwise limit federal highway fund appropriations to this state. ~~The commissioner of highways shall, by December 31, 2004, review and revise, as the commissioner deems appropriate, weight limits for all state-maintained roads and public highways and provide to the Joint Committee on Government and Finance a report denoting all weight limits as they have been designated on state maintained roads and public highways~~

Senator Trump arose to a point of order that Senator Smith's amendment was not germane to the bill.

Which point of order, the President ruled well taken.

On motion of Senator Beach, the following amendment to the bill (Com. Sub. for S. B. 6) was next reported by the Clerk:

On page four, section eleven, after line ninety-two, by adding a new subsection, designated subsection (f), to read as follows:

(f) A vehicle or combination of vehicles of a width exceeding the maximum width specified in this chapter that requires a special permit to operate or move over routes designated by the Commissioner of Highways, upon terms and restrictions prescribed by the Public Service Commission, shall have escort vehicles at the front and at the rear of the vehicle or combination of vehicles that are the subject of the special permit.

Following discussion,

The question being on the adoption of Senator Beach's amendment to the bill, the same was put and did not prevail.

The bill (Com. Sub. for S. B. 6) was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 204**, Providing for nonpartisan elections of county prosecuting attorneys.

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

**Com. Sub. for Senate Bill 285**, Eliminating WV Greyhound Breeding Development Fund.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.



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

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

**Senate Bill 652**, Authorizing School Building Authority promulgate legislative rules.

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

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

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

**Com. Sub. for Senate Bill 686**, Exempting contract and common carrier laws for certain vehicles.

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

**Com. Sub. for Senate Bill 719**, Imposing health care-related provider tax on certain health care organizations.

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

**Senate Bill 740**, Clarifying authorized users of Ron Yost Personal Assistance Services Fund.

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

**Senate Bill 747**, Requiring Bureau for Public Health develop Diabetes Action Plan.

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

**Senate Bill 748**, Increasing awareness of palliative care services.

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

**Senate Bill 767**, Relating to licensure of hospitals.

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

**Eng. Com. Sub. for House Bill 4026**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

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

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

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

The bill (Eng. Com. Sub. for H. B. 4026), as amended, was then ordered to third reading.

**Eng. House Bill 4501**, Relating to the ability to refuse offenders for commitment to a jail.

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:

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS  
AND PUBLIC SAFETY.**

**ARTICLE 5. BUREAU OF PRISONS AND JAILS.****§15A-5-9. Ability to refuse offenders.**

(a) Notwithstanding any other provision of this code, the commissioner, or any employee or agent of the division, having authority to accept offenders in a jail is not required to accept those offenders if an offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until a written clearance is received from a licensed physician reflecting that the offender has been examined and if necessary treated, and which states that it is the physician's medical opinion that the offender can be safely housed in a jail.

(b) Notwithstanding the provisions of subsection (a) of this section, the division, the commissioner, or any employee or agent of the division, may accept an offender into custody who appears to be in need of medical attention of a degree necessitating treatment by a licensed medical professional, who refuses a medical examination or medical treatment to a licensed medical professional, and is immune from civil or criminal liability for accepting the person into custody.

**CHAPTER 62. CRIMINAL PROCEDURE.****ARTICLE 1C. BAIL.****§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.**

(a) A bailpiece is a certificate stating that the bail became such for the accused in a particular case and the amount thereof. Upon demand therefor, the court, magistrate, or clerk shall issue to the bail bondsperson a bailpiece. Any officer having authority to execute a warrant of arrest shall assist the bail bondsperson holding such bailpiece to take the accused into custody and produce him or her before the court or magistrate. The bail bondsperson may take the accused into custody and surrender him or her to the court or magistrate without such bailpiece.

(b) If bailpiece is inaccessible due to unavailability of the court's circuit clerk or magistrate, the bail bondsperson, or his or her designee, can take an offender to a regional ~~or county~~ jail without bailpiece, and the jail must accept the offender, provided:

(1) The bail bondsperson, or his or her designee, delivering an offender to a jail without a bailpiece issued by the court's circuit clerk or magistrate appears on the registered list maintained at the jails and approved by the court of original jurisdiction;

(2) The bail bondsperson signs an agreement provided by the jail indicating that the offender has been booked in lieu of bailpiece. Such agreement shall contain a clause indicating the incarceration of such offender is lawful and that the jail accepting the offender shall be held harmless from any claims of illegal incarceration or other relative charges; thereby, such bail bondsperson assumes the risk and liability of such incarceration; and

(3) Bailpiece must be applied for by the bail bondsperson or his or her designee from the court's circuit clerk or magistrate and hand-delivered by the bail bondsperson or his or her designee to the jail housing such offender on the next judicial day following the initial intake.

(c) Any bail bondsperson who willfully fails to attempt to obtain the appropriate bailpiece within the allotted time period provided in subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be prohibited from continuing to conduct business in this state and shall be fined not more than \$1,000 and confined in the regional ~~or county~~ jail not more than one year.

(d) No officer, jailer, or other person having authority to accept offenders in a ~~county or~~ regional jail is required to accept such offenders being housed in lieu of bailpiece except as set forth in §15A-5-9 of this code. ~~if such offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until the bail bondsperson, or his or her designee, provides the jailer or~~

~~persons accepting such offender with a written clearance from a licensed physician reflecting that the offender has been examined and, if necessary, treated, and which states that it is the physician's medical opinion that the offender can be safely confined in the county or regional jail~~

(e) ~~The Regional Jail Authority~~ Division of Corrections and Rehabilitation, the county sheriff, county commission, or any of their agents or employees, shall be immune from liability for any claims of illegal incarceration or other relative charges for any offender accepted into a facility under this section.

## **ARTICLE 6. MISCELLANEOUS PROVISIONS CONCERNING CRIMINAL PROCEDURES.**

### **§62-6-6a. Disposition of prisoners.**

[Repealed]

The bill (Eng. H. B. 4501), 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:

**Com. Sub. for Senate Bill 502**, Relating to methamphetamine criminal penalty.

**Senate Bill 562**, Expunging certain criminal convictions.

**Senate Bill 610**, Removing resident manager requirement for Alcohol Beverage Control Administration.

And,

**Com. Sub. for Senate Bill 692**, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Tarr.

The Senate proceeded to the thirteenth order of business.

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

**Senate Resolution 43:** Senator Lindsay;

And,

**Senate Resolution 44:** Senator Rucker.

Pending announcement of meetings of standing committees of the Senate,

Senator Takubo moved that the Senate adjourn until tomorrow, Wednesday, February 19, 2020, at 11 a.m.

Senator Takubo requested unanimous consent that the remarks made by Senator Tarr during the twelfth order of business in earlier proceedings today be ordered printed in the Appendix to the Journal.

Which consent was not granted, Senator Plymale objecting.

Senator Takubo then moved that the remarks made by Senator Tarr during the twelfth order of business in earlier proceedings today be order printed in the Appendix to the Journal.

Which motion, the President ruled out of order.

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

Whereupon, at 12:32 p.m., the Senate adjourned until tomorrow, Wednesday, February 19, 2020, at 11 a.m.

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## WEDNESDAY, FEBRUARY 19, 2020

The Senate met at 11:14 a.m.

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

Prayer was offered by the Reverend Jim Butcher, Madison Baptist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Tuesday, February 18, 2020,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 560**, Permitting nursing home use trained individuals administer medication.

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. Senate Bill 620**, Authorizing Division of Corrections and Rehabilitation approve home plans for inmates.

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 the following:

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole.**

(a) The Parole Board, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the limitations provided in this section, shall release any inmate on parole for terms and upon conditions provided by this article.

(b) Any inmate of a state correctional institution is eligible for parole if he or she:

(1) (A) Has served the minimum term of his or her indeterminate sentence or has served one fourth of his or her definite term sentence, as the case may be; or

(B) He or she has applied for and been accepted by the Commissioner of Corrections and Rehabilitation into an accelerated parole program. To be eligible to participate in an accelerated parole program, the commissioner must determine that the inmate:

(i) Does not have a prior criminal conviction for a felony crime of violence against the person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(ii) Is not serving a sentence for a crime of violence against the person, or more than one felony for a controlled substance offense for which the inmate is serving a consecutive sentence, a felony



offense involving the use of a firearm, or a felony offense where the victim was a minor child; and

(iii) Has successfully completed a rehabilitation treatment program created with the assistance of a standardized risk and needs assessment.

(C) Notwithstanding any provision of this code to the contrary, any inmate who committed, or attempted to commit, a felony with the use, presentment, or brandishing of a firearm is not eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum sentence imposed by the court, whichever is less: *Provided*, That any inmate who committed, or attempted to commit, any violation of §61-2-12 of this code, with the use, presentment, or brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in this paragraph applies to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented, or brandished a firearm. An inmate is not ineligible for parole under the provisions of this paragraph because of the commission or attempted commission of a felony with the use, presentment, or brandishing of a firearm unless that fact is clearly stated and included in the indictment or presentment by which the person was charged and was either: (i) Found guilty by the court at the time of trial upon a plea of guilty or nolo contendere; (ii) found guilty by the jury upon submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury; or (iii) found guilty by the court if the matter was tried by the court without a jury.

(D) The amendments to this subsection adopted in the year 1981:

(i) Apply to all applicable offenses occurring on or after August 1 of that year;

(ii) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;

(iii) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: *Provided*, That the state gives notice in writing of its intent to seek such finding by the jury or court, as the case may be. The notice shall state with particularity the grounds upon which the finding will be sought as fully as the grounds are otherwise required to be stated in an indictment, unless the grounds upon which the finding will be sought are alleged in the indictment or presentment upon which the matter is being tried;

(iv) Does not apply with respect to cases not affected by the amendments and in those cases the prior provisions of this section apply and are construed without reference to the amendments; and

(v) Insofar as the amendments relate to mandatory sentences restricting the eligibility for parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

(E) As used in this section, “felony crime of violence against the person” means felony offenses set forth in §61-2-1 et seq., §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(F) As used in this section, “felony offense where the victim was a minor child” means any felony crime of violence against the person and any felony violation set forth in §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(G) For the purpose of this section, the term “firearm” means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder, or any other similar means;

(2) Is not in punitive segregation or administrative segregation as a result of disciplinary action;

(3) Has prepared and submitted to the Parole Board a written parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment which has been approved by the Division of Corrections and Rehabilitation: *Provided*, That an inmate's application for parole may be considered by the board without the prior submission of a home plan, but the inmate shall have a home plan approved by the ~~board~~ division prior to his or her release on parole. The Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, shall review and investigate the plan and provide ~~recommendations~~ findings to the board as to the suitability of the plan: *Provided, however*, That in cases in which there is a mandatory 30-day notification period required prior to the release of the inmate, pursuant to §62-12-23 of this code, the board may conduct an initial interview and deny parole without requiring the development of a plan. In the event the board believes parole should be granted, it may defer a final decision pending completion of an investigation and receipt of ~~recommendations~~ the commissioner's findings. Upon receipt of the plan, together with the investigation and ~~recommendation~~ findings, the board, through a panel, shall make a final decision regarding the granting or denial of parole; and

(4) Has satisfied the board that if released on parole he or she will not constitute a danger to the community.

(c) Except in the case of an inmate serving a life sentence, a person who has been previously twice convicted of a felony may not be released on parole until he or she has served the minimum term provided by law for the crime for which he or she was convicted. An inmate sentenced for life may not be paroled until he or she has served 10 years, and an inmate sentenced for life who has been previously twice convicted of a felony may not be paroled until he or she has served 15 years: *Provided*, That an inmate convicted of first degree murder for an offense committed on or after June 10, 1994, is not eligible for parole until he or she has served 15 years.

(d) In the case of an inmate sentenced to a state correctional facility regardless of the inmate's place of detention or incarceration, the Parole Board, as soon as that inmate becomes eligible, shall consider the advisability of his or her release on parole.

(e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of the denial. The board shall, at the time of denial, notify the inmate of the month and year he or she may apply for reconsideration and review. The board shall at least once a year reconsider and review the case of every inmate who was denied parole and who is still eligible: *Provided*, That the board may reconsider and review parole eligibility any time within three years following the denial of parole of an inmate serving a life sentence with the possibility of parole.

(f) Any inmate in the custody of the commissioner for service of a sentence who reaches parole eligibility is entitled to a timely parole hearing without regard to the location in which he or she is housed.

(g) The board shall, with the approval of the Governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted under this article are intended or may be construed to contravene, limit, or otherwise interfere with or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit fines, or otherwise exercise his or her constitutional powers of executive clemency.

(h) (1) The Division of Corrections and Rehabilitation shall promulgate policies and procedures for developing a rehabilitation treatment plan created with the assistance of a standardized risk and needs assessment. The policies and procedures shall provide for, at a minimum, screening and selecting inmates for rehabilitation treatment and development, using standardized risk and needs assessment and substance abuse assessment tools, and prioritizing the use of residential substance abuse treatment resources based on the results of the standardized risk and needs assessment and a substance abuse assessment. The results of all

standardized risk and needs assessments and substance abuse assessments are confidential.

(2) An inmate shall not be paroled under paragraph (B), subdivision (1), subsection (b) of this section solely due to having successfully completed a rehabilitation treatment plan, but completion of all the requirements of a rehabilitation treatment plan along with compliance with the requirements of subsection (b) of this section creates a rebuttable presumption that parole is appropriate. The presumption created by this subdivision may be rebutted by a Parole Board finding that, according to the standardized risk and needs assessment, at the time parole release is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if released. Nothing in subsection (b) of this section or in this subsection may be construed to create a right to parole.

(i) Notwithstanding the provisions of subsection (b) of this section, the Parole Board may grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate. A denial of parole under this subsection precludes consideration for parole for a period of one year or until the provisions of subsection (b) of this section are applicable.

(j) If an inmate is otherwise eligible for parole pursuant to subsection (b) of this section, and has completed the rehabilitation treatment program required under subdivision (1), subsection (h) of this section, the Parole Board may not require the inmate to participate in an additional program, but may determine that the inmate must complete an assigned task or tasks prior to actual release on parole. The board may grant parole contingently, effective upon successful completion of the assigned task or tasks, without the need for a further hearing.

(k) (1) The Division of Corrections and Rehabilitation shall supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate

compact entered into pursuant to the Uniform Act for Out-of-State Parolee Supervision.

(2) The Division of Corrections and Rehabilitation shall provide supervision, treatment/recovery, and support services for all persons released to mandatory supervision under ~~section twenty seven, article five, chapter twenty eight~~ §15A-4-17 of this code.

(1) (1) When considering an inmate of a state correctional facility for release on parole, the Parole Board panel considering the parole shall have before it an authentic copy of, or report on, the inmate's current criminal record as provided through the West Virginia State Police, the United States Department of Justice, or any other reliable criminal information sources and written reports of the ~~warden or~~ superintendent of the state correctional institution to which the inmate is sentenced:

(A) On the inmate's conduct record while in custody, including a detailed statement showing any and all infractions of disciplinary rules by the inmate and the nature and extent of discipline administered for the infractions;

(B) On the inmate's industrial record while in custody which shall include: The nature of his or her work, occupation or education, the average number of hours per day he or she has been employed or in class while in custody and a recommendation as to the nature and kinds of employment which he or she is best fitted to perform and in which the inmate is most likely to succeed when he or she leaves the state correctional institution; and

(C) On any physical, mental, psychological, or psychiatric examinations of the inmate.

(2) The Parole Board panel considering the parole may waive the requirement of any report when not available or not applicable as to any inmate considered for parole but, in every case, shall enter in its record its reason for the waiver: *Provided*, That in the case of an inmate who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to, a felony under the provisions of

§61-8-12 of this code or under the provisions of §61-8B-1 *et seq.* or §61-8C-1 *et seq.* of this code, the Parole Board panel may not waive the report required by this subsection. The report shall include a study and diagnosis of the inmate, including an on-going treatment plan requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program: *Provided, however,* That nothing disclosed by the inmate during the study or diagnosis may be made available to any law-enforcement agency, or other party without that inmate's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the parolee to do harm to any person, animal, institution, or to property. Progress reports of outpatient treatment are to be made at least every six months to the parole officer supervising the parolee. In addition, in such cases, the Parole Board shall inform the prosecuting attorney of the county in which the person was convicted of the parole hearing and shall request that the prosecuting attorney inform the Parole Board of the circumstances surrounding a conviction or plea of guilty, plea bargaining, and other background information that might be useful in its deliberations.

(m) Before releasing any inmate on parole, the Parole Board shall arrange for the inmate to appear in person before a Parole Board panel and the panel may examine and interrogate him or her on any matters pertaining to his or her parole, including reports before the Parole Board made pursuant to the provisions of this section: *Provided,* That an inmate may appear by video teleconference if the members of the Parole Board panel conducting the examination are able to contemporaneously see the inmate and hear all of his or her remarks and if the inmate is able to contemporaneously see each of the members of the panel conducting the examination and hear all of the members' remarks: *Provided, however,* That the requirement that an inmate personally appear may be waived where a physician authorized to do so by the Commissioner of the Division of Corrections and Rehabilitation certifies that the inmate, due to a medical condition or disease, is too debilitated, either physically or cognitively, to appear. The panel shall reach its own written conclusions as to the desirability

of releasing the inmate on parole and the majority of the panel considering the release must concur in the decision. The ~~warden or~~ superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the Parole Board. All information, records, and reports received by the Parole Board shall be kept on permanent file.

(n) The Parole Board and its designated agents are at all times to have access to inmates imprisoned in any state correctional facility or in any jail in this state and may obtain any information or aid necessary to the performance of its duties from other departments and agencies of the state or from any political subdivision of the state.

(o) The Parole Board shall, if requested by the Governor, investigate and consider all applications for pardon, reprieve, or commutation and shall make recommendation on the applications to the Governor.

(p) Prior to making a recommendation for pardon, reprieve or commutation, the board shall notify the sentencing judge and prosecuting attorney at least ten days before the recommendation.

(q) A parolee shall participate as a condition of parole in the litter control program of the county to which he or she is released to the extent directed by the Parole Board, unless the board specifically finds that this alternative service would be inappropriate.

**§62-12-13c. Authority of commissioner to establish a nonviolent offense parole program.**

(a) The commissioner is authorized to establish a nonviolent offense parole program for any inmate of a state correctional facility in which an inmate may be paroled without action of the Parole Board based upon objective standards as set forth in this section, to commence on July 1, 2021.

(b) Notwithstanding any provision of this code to the contrary, any inmate of a state correctional facility is eligible for parole under the nonviolent offense parole program if:



(1) He or she has served at least the minimum term of his or her sentence and is eligible for parole as determined by the parole board; and

(2) He or she qualifies for the nonviolent offense parole program as authorized by this section.

(c) To qualify for the nonviolent offense parole program, the commissioner must determine that the inmate:

(1) Is not serving a sentence for a crime of violence against the person, crime of violence against an animal, or felony for a controlled substance offense which involves actual or threatened violence to a person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(2) Has successfully completed an individualized rehabilitation treatment program as determined by the division; and

(3) Has otherwise satisfied the requirements for parole eligibility set forth in §62-12-13 of this code.

(d) Any person released under the nonviolent offense parole program shall be subject to all conditions of release and sanctions for violations applicable to persons released on parole by the Parole Board, and all parole revocations of persons granted parole pursuant to this section shall be heard in accordance with the provisions of §62-12-19 of this code.

(e) The nonviolent offense parole program authorized by subsection (a) of this section requires no action by the Parole Board as to the release decision if the inmate qualifies for the program and has successfully completed his or her rehabilitation treatment program as determined by the commissioner.

(f) The commissioner shall develop a policy directive setting forth the processes and procedures to determine successful completion of the rehabilitation treatment program and to provide notice to the inmate. If the inmate fails to successfully complete his or her rehabilitation treatment program, his or her parole shall be determined in accordance with the provisions of §62-12-13 of this

code. An inmate who has been denied parole pursuant to the provisions of §62-12-13 of this code and who thereafter successfully completes his or her rehabilitation treatment program prior to his or her next parole review shall be eligible for release under the nonviolent offense parole program within a reasonable time after he or she may successfully complete such program as determined by the commissioner, provided the inmate remains qualified for release under the nonviolent offense parole program.;

And,

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

**Eng. Senate Bill 620**—A Bill to amend and reenact §62-12-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §62-12-13c, all relating to authorizing the Commissioner of the Division of Corrections and Rehabilitation to approve home plans for inmates; authorizing the Commissioner of the Division of Corrections and Rehabilitation to establish a nonviolent offense parole program; establishing eligibility requirements for said program; clarifying that inmates released under said program are subject to the same conditions of release and sanctions; clarifying that inmate's failing to successfully complete the rehabilitation treatment program are ineligible for release; and clarifying that inmates not otherwise released may be eligible for said program at the time of successful completion of the rehabilitation treatment program.

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

Engrossed Senate Bill 620, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 620) 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 2086**, Uniform Real Property Electronic Recording Act.

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, of

**Eng. Com. Sub. for House Bill 2497**, Relating to the whistleblower law.

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

**Eng. Com. Sub. for House Bill 2775**—A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended, relating to requiring each high school student to complete a one credit course of study in personal finance as a requirement for high school graduation; end-of-course examination; state board development of standards.

Referred to the Committee on Education.

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, of

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

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 with its Senate amended title, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

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

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 one, subsection (b), subdivision (1), by striking out the word “fetus” and inserting in lieu thereof the word “child”;

On page one, section one, subsection (b), subdivision (1), paragraph (A), by striking out the word “fetus” and inserting in lieu thereof the word “child”;

And,

On page one, section one, subsection (b), subdivision (1), paragraph (B), by striking out the word “fetus” and inserting in lieu thereof the word “child”.

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

Engrossed House Bill 4007, as amended, was then put upon its passage.

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

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4007) passed with its Senate 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 4058**, Relating to pharmacy benefit managers.

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

**Eng. Com. Sub. for House Bill 4165**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-8b, relating to public education; establishing the West Virginia Remembers Program; and authorizing the State Board of Education to promulgate a rule providing for maintaining of lists by county boards of veteran volunteers to speak in the public schools.

Referred to the Committee on Military; and then to the Committee on Education.

A message from the Clerk of the House of Delegates announced that that body had agreed to the changed effective date, to take effect from passage, of

**Eng. Com. Sub. for House Bill 4470**, Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services.

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, of

**Eng. House Bill 4476**, Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases.

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

**Eng. House Bill 4519**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5B-2D-8 and §18-2-7e, all relating to partnerships for improving student engagement and preparation in the changing world of work; establishing a summer youth intern pilot program within Department of Commerce; authorizing diverse stakeholder working group and external champions for development and support of future-ready graduate profile for success in occupations and entrepreneurship; suggesting action steps; and suggesting roles for local school improvement councils.

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

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

**Eng. Com. Sub. for House Bill 4621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to the West Virginia FinTech Regulatory Sandbox Program; defining terms; establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state; establishing scope of the ability to operate without otherwise being licensed or authorized to act with respect to approved financial products or services; providing consumer protections; establishing time limitations on the ability to operate without otherwise being licensed or authorized to act with respect to approved financial products or services; providing reporting requirements; and providing for rulemaking.

Referred to the Committee on Economic Development.

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

**Eng. Com. Sub. for House Bill 4633**—A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions' ability to dispose of county or district property; and adding the ability of county commissions to dispose of the property to a nonprofit community center organization or nonprofit senior center organization without conducting a public sale.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 4729**—A Bill to amend and reenact §18B-10-14 of the Code of West Virginia, 1931, as amended, relating to the purchase of educational materials at institutions of higher education; establishing or continuing an

educational materials affordability committee; requiring that the educational materials affordability committee make certain recommendations to the institutional governing boards; and defining the term “educational materials”.

Referred to the Committee on Education.

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 18th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. 46)**, Defining “pepper spray” and exempting from definition of “deadly weapons”.

**(Com. Sub. for S. B. 364)**, Authorizing Department of Transportation promulgate legislative rules.

**(Com. Sub. for S. B. 470)**, Relating to use of crossbow to hunt.

**(Com. Sub. for S. B. 487)**, Providing exception that all DNR payments be deposited within 24 hours.

**(Com. Sub. for S. B. 500)**, Relating to Class Y special crossbow hunting permit.

**(Com. Sub. for S. B. 501)**, Adding protection, operation of North Bend Rail Trail, Greenbrier River Trail, and Elk River Trail to Parks and Recreation Section of DNR.

And,

**(H. B. 4141)**, Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December.



Respectfully submitted,

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

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

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

**Senate Bill 120**, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

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,

Randy E. Smith,  
*Chair.*

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

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

**Com. Sub. for Senate Bill 284** (originating in the Committee on Banking and Insurance), Creating WV Health Care Continuity Act.

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

**Com. Sub. for Com. Sub. for Senate Bill 284** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated §33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto a new section, designated §33-25A-8u; to amend said code by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, and §33-53-12, all relating to establishing the West Virginia Health Care Continuity Act; making the act applicable to existing code; including provisions for the creation of a State Commission on Health Care Continuity when the act becomes effective; establishing the West Virginia Patient Protection Pool Risk-Sharing Program and review by the Joint Committee on Government and Finance; providing limitations on preexisting condition exclusions for health benefit plans; requiring rulemaking; requiring fairness in cost sharing and ratemaking; and including a conflict of laws provision.

With the recommendation that the committee substitute for committee substitute 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

**Com. Sub. for Senate Bill 484**, Requiring free feminine hygiene products be provided to female prisoners.

And,

**Senate Bill 755**, Relating to High-Wage Growth Business Tax Credit Act.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 491** (originating in the Committee on Agriculture and Rural Development), Relating to Seed Certification Program.

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

**Com. Sub. for Com. Sub. for Senate Bill 491** (originating in the Committee on Government Organization)—A Bill to amend and reenact §19-16-1, §19-16-2, §19-16-3, §19-16-4, §19-16-5, and §19-16-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §19-16-3b, §19-16-5a, and §19-16-9, all relating to the Seed Certification Program within the Department of Agriculture; defining terms; adding flower seed requirements; adding labeling requirements for seed; adding labeling requirements for interstate shipping; authorizing legislative rules for penalties; updating certificate of registration requirements; requiring quarterly tonnage fees and reports for seed; requiring monthly reports for seed potatoes; requiring record retention; updating prohibitions for labeling; setting forth label, signage, and other requirements for noncommercial seed sharing; updating duties and authority of commissioner; authorizing inspections of seed conditioning

facilities, issuance of permits, and establishment of fees; and providing for penalties for labeling deficiencies.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 528**, Creating Uniform Worker Classification Act.

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

**Com. Sub. for Senate Bill 528** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4, §21-5I-5, and §21-5I-6, all relating to the West Virginia Employment Law Worker Classification Act; and clarifying definition of “independent contractor”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 578**, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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

**Com. Sub. for Senate Bill 578** (originating in the Committee on Finance)—A Bill to amend and reenact §11-13-2o of the Code of West Virginia, 1931, as amended, relating to adjusting the calculation of business and occupation tax on the business of generating, producing, or selling electricity from solar energy facilities; and clarifying the taxable generating capacity for generating units utilizing solar photovoltaic methods shall equal eight percent of official capacity of the unit for the taxable period beginning January 1, 2020.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 579** (originating in the Committee on Government Organization), Changing and adding fees to wireless enhanced 911 fee.

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

**Com. Sub. for Com. Sub. for Senate Bill 579** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-6b of said code, all relating to changing the

wireless enhanced 911 fee; and establishing a separate public safety fee and wireless tower fee.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 586**, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

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

**Com. Sub. for Senate Bill 586** (originating in the Committee on Government Organization)—A Bill to repeal §15-5-4 and §15-5-27 of the Code of West Virginia, 1931, as amended; to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-12, §29-3-12a, §29-3-12b, §29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27, §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §15-1A-3 of said code; to amend and reenact §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-20a, §15-5-24, and §15-5-26 of said code; to amend said code by adding thereto a new section, designated §15-5-29; to amend and reenact §15A-1-2 and §15A-1-3 of said code; to amend said code by adding thereto a new section, designated §15A-1-9; to amend said code by adding thereto a new

article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, and §15A-9-7; to amend said code by adding thereto a new article, designated §15A-10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8, §15A-10-9, §15A-10-10, §15A-10-11, §15A-10-12, §15A-10-13, §15A-10-14, §15A-10-15, §15A-10-16, §15A-10-17, §15A-10-18, §15A-10-19, §15A-10-20, §15A-10-21, §15A-10-22, §15A-10-23, §15A-10-24, and §15A-10-25; to amend said code by adding thereto a new article, designated §15A-11-1, §15A-11-2, §15A-11-3, §15A-11-4, §15A-11-5, §15A-11-6, §15A-11-7, §15A-11-8, §15A-11-9, §15A-11-10, and §15A-11-11; to amend and reenact §19-1-4 of said code; to amend and reenact §19-21A-4 of said code; to amend and reenact §20-1-7 of said code; to amend and reenact §22-1-6 of said code; to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code; to amend said code by adding thereto a new section, designated §29-31-5; and to amend said code by adding thereto a new section, designated §33-2-23, all relating to reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security; clarifying the divisions that report to the cabinet secretary of that department; removing the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifying the agencies established within the Department of Military Affairs and Public Safety; delineating that the secretary of each state department cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; requiring that the Adjutant General cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; designating the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants; designating the Division of Homeland Security and Emergency Management as the Division of Emergency Management; making the employees of the Division of Emergency Management classified-exempt employees; terminating the West Virginia Disaster Recovery Board; providing that the State Resiliency Officer have the authority to disburse funds from the Disaster Recovery Trust Fund; granting powers necessary to accomplish such disbursement to the State Resiliency

Officer; providing for appropriations and other funding sources to the Disaster Recovery Trust Fund; deleting requirements for government entities with deficiently trained floodplain managers to transfer their floodplain oversight to another governmental entity; amending provisions regarding administration of the Disaster Recovery Trust Fund; providing the State Resiliency Officer need not pay taxes for moneys deposited in the Disaster Recovery Trust Fund or other assets of such fund; repealing the provision for an annual report of the abolished Disaster Recovery Board; providing the Director of the Division of Emergency Management shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; establishing the powers and duties of the Secretary of the Department of Homeland Security; establishing the Office of Administrative Hearings within the Department of Homeland Security; authorizing the appointment of a Chief Hearing Examiner; establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the Office of Administrative Hearings; establishing hearing procedures; establishing rule-making authority; establishing a duty to provide notice of change of address; establishing policies for the transition from divisions of the Department of Homeland Security to the Office of Administrative Hearings; separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Homeland Security; setting forth the appointment process for the Fire Marshal; setting forth qualifications, salary, and responsibilities of the State Fire Marshal; allowing the Fire Marshal to hire employees; allowing the Fire Marshal to hire a deputy, and setting the qualifications of the deputy; requiring new Fire Marshals 1, 2, 3, and deputies to become certified law-enforcement officers; setting forth powers and duties of the State Fire Marshal; setting forth additional powers and duties relating to law enforcement, statewide contracts, penalties, and authority to carry firearms; creating enforcement standards for the state building and fire codes; creating rule-making authority; allowing the appointment of advisory boards; setting forth the responsibilities of insurance companies in fire loss investigations; allowing the Fire Marshal to set fees; requiring an annual report; setting forth maintenance of fire hazard standards;



allowing orders for repair or demolition; allowing orders to contain notice to comply and a right to appeal; providing standards for service of repair or demolition orders; clarifying who is responsible for cost of work or demolition; allowing an action to recover cost; requiring smoke detectors in one- and two-family dwellings; requiring carbon monoxide detectors in residential units, schools, and day care facilities and setting forth penalties; allowing the use of live trees in public buildings under certain circumstances; setting forth safety standards for bed and breakfast establishments; setting forth standards for installation of propane gas systems; setting forth parameters to abate fire hazards; setting forth license denial, limitation, suspension, and revocation standards; creating an independent informal dispute process for licensees upon appeal; establishing demonstration building and equipment standards for educational instruction for fire protection and prevention and abatement; creating crime of false alarm of fires and setting forth penalties; creating tax on insurance companies; setting forth general criminal penalties for violation; setting forth that the parts of the article are construed liberally; creating a severability section; allowing the Fire Marshal to award service weapons to retiring employees under certain conditions; allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission; setting forth composition, qualifications, appointment, terms of office, removal, vacancies, and compensation and expenses of commission; establishing chairperson, vice chairperson, meeting, and quorum requirements; creating rule-making authority for fire code, building code, and general rule-making authority; continuing the Hazardous Response Training Program; requiring public hearing and notice prior to promulgation of fire code; setting forth commission's powers and conduct of public hearings; setting forth commission's powers, duties, and authority; setting forth authority over volunteer fire department training and equipment, and creating rule-making authority for such; continuing courtesy certification of firefighters in surrounding states to serve as volunteer firefighters; continuing the Fire Service Equipment and Training Fund; providing the Commissioner of Agriculture shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the State Conservation Committee shall cooperate with the State

Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Director of the Division of Natural Resources shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Secretary of the Department of Environmental Protection shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; repealing generally now-obsolete provisions relating to the Fire Commission and State Fire Marshal; placing the State Resiliency Office under the Office of the Governor; adding the President of the West Virginia Emergency Management Council, the Secretary of the Department of Homeland Security, and the Director of the Division of Emergency Management on the State Resiliency Office Board; adding two nonvoting member legislators from each house of the Legislature to the State Resiliency Office Board; specifying tenure of office on that board; providing that members of the board serve without compensation, but may collect necessary expenses; providing certain mandatory duties for that board; providing the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, and setting the duties and qualifications for such officer; providing for the employment of a deputy to the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, upon presentation from a list of names by the State Resiliency Office Board, and, setting the duties and qualifications for such officer; providing that the State Resiliency Officer and his or her deputy must have complimentary work experience; specifying the areas in which the State Resiliency Office Board shall be required to assist the State Resiliency Officer to fulfill the missions of that office, and specifying the areas where that body shall assist the State Resiliency Officer to devise plans and develop procedures; providing for certain exemptions from the Public Meetings Act and Freedom of Information Act for meetings of, and materials presented to, the board; delineating the authority of the State Resiliency Office and the State Resiliency Officer in carrying out their missions; providing the State Resiliency Officer shall report at least quarterly to the Joint Legislative Committee on Flooding; granting the State Resiliency Officer authority to hire employees for the office; providing that such employees are at-will,

may participate in state insurance and other programs, and, if entrusted with state funds, shall execute surety bonds; providing that the State Resiliency Officer shall set employee salary rates; creating the State Office of the National Flood Insurance Program in the Office of the Insurance Commissioner; requiring a coordinator to administer such program; providing that state-owned property in any nonparticipating community shall be governed by appropriate rules promulgated by the Insurance Commissioner; requiring the coordinator and floodplain managers to develop a strategic plan to meet goals and objectives, which plan shall be reviewed by and must be approved by the State Resiliency Officer and State Resiliency Office Board; requiring the coordinator to establish and enforce flood plain management regulations in special hazard areas which are in conformity with federal laws and regulations; and providing the coordinator of the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 649**, Permitting county emergency phone system directors negotiate contracts for mobile phones.

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

**Com. Sub. for Senate Bill 649** (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-

6-5 of the Code of West Virginia, 1931, as amended, relating to permitting directors of county emergency phone systems to obtain mobile phone emergency lines and enter into service provider contracts; establishing payment of emergency mobile phone contracts; and requiring a report.

And,

**Senate Bill 751**, Removing certain requirements of municipality annexing property within urban growth boundary.

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

**Com. Sub. for Senate Bill 751** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-6-4a of the Code of West Virginia, 1931, as amended, relating to removing certain requirements when a municipality seeks to annex property within an urban growth boundary.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Swope, 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 Bill 672**, Creating special registration plate recognizing Girl Scouts.

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

**Com. Sub. for Senate Bill 672** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and

reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to creating a special registration plate to recognize Girl Scouts; and establishing a special initial application fee and an annual fee for each plate.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Vice 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 Bill 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act.

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

**Com. Sub. for Senate Bill 689** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, and §33-53-5, all relating to enacting the Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act; providing a short title; providing for definitions; outlining reporting requirements for drug manufacturers and health benefit plan issuers to the Auditor; outlining the pharmaceutical data required by the Auditor; directing the Auditor to create a searchable pharmaceutical transparency website; protecting confidentiality of patient information; providing registration requirements to drug manufacturers and health benefit plan issuers; requiring reporting to the Legislature; and outlining penalties when a health benefit plan or drug manufacturer fails to submit or submits inaccurate information to the Auditor.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 691**, Limiting programs adopted by State Board of Education.

And,

**Senate Bill 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Roberts, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

**Senate Bill 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

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

**Com. Sub. for Senate Bill 705** (originating in the Committee on the Workforce)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-14-3a; to amend said code by adding thereto a new section, designated §29-3B-4a; and to amend said code by adding thereto a new section, designated §29-3D-4a, all relating to allowing military veterans with certain experience to qualify for examination for licensure as a plumber, electrician, sprinkler fitter, and sprinkler fitter in training; providing the qualifications to sit for a plumber's examination; providing qualifications to sit for an electrician's examination; and providing qualifications to sit for an examination of a sprinkler fitter in training or a journeyman sprinkler fitter.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Rollan A. Roberts,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 707**, Relating to nursing career pathways.

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

**Com. Sub. for Senate Bill 707** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11a, relating to making a nursing career pathway available to students statewide; setting forth legislative findings; requiring that a nursing career pathway workgroup be convened; charging the workgroup with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor's degree in nursing; requiring the nursing career pathway to be made available to

students statewide; requiring report to the Legislative Oversight Commission on Education Accountability every month that the commission meets on the progress in implementing the career pathway; and requiring consideration of certain specified ideas in establishing the pathway.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Swope, 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 Bill 722**, Relating to special license plates for public and private nonprofit transit providers.

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

**Com. Sub. for Senate Bill 722** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-3-23 of said code, all relating to motor vehicles; exempting certain vehicles operated in the name of a public transit provider or nonprofit transit provider from motor vehicle sales tax; and authorizing special license plates for certain vehicles titled in the name of a public transit provider, private nonprofit transit provider, or certain nonprofit entities.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*



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

Your Committee on Education has had under consideration

**Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Swope, 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 Bill 727**, Relating to disbursement of funds for highway road repair.

And,

**Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

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

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 728**, Exempting all property used for agricultural purposes from county property maintenance codes or ordinances.

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

**Com. Sub. for Senate Bill 728** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-1-3n of the Code of West Virginia, 1931, as amended, relating to prohibiting county commissions from enacting or enforcing property maintenance codes.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

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

**Senate Bill 731**, Limiting severance tax break on steam coal.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively or financially exempt school.

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

**Com. Sub. for Senate Bill 760** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-1F; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-4 and §18B-1B-6 of said code; to amend and reenact §18B-1D-7 of said code; and to amend and reenact §18B-19-4 of said code, all relating to higher education; providing findings; defining terms; allowing any state college and university to apply to the Higher Education Policy Commission for designation as an administratively exempted school; requiring Higher Education Policy Commission to propose rules for legislative approval that address loss of an administratively exempted designation; setting forth specific exemptions for a college and university designated as an administratively exempted school; requiring Higher Education Policy Commission report to the Legislative Oversight Commission on Education Accountability certain information pertaining to the administratively exempted schools eligibility criteria; updating institution names; referring to exempted schools as statutorily exempted schools; removing obsolete language; updating code to reflect removal of statewide master plan and compact requirements by prior legislation; removing requirement for Higher Education Policy Commission to advise and confirm in the appointment of presidents of the institutions of higher education under its jurisdiction; amending the powers and duties of the Higher Education Policy Commission, consistent with the specific exemptions provided for administratively exempted schools; clarifying that Higher Education Policy Commission can use certain appropriated incentive funds to influence behavior of statutorily and administratively exempted schools; amending requirements pertaining to the required report to the Joint

Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability that includes a recommendation for the allocation of general revenue to be appropriated to the institutions; removing requirement for Higher Education Policy Commission to confirm appointment of institutional presidents; requiring classified employees, if any are employed by the institution, be used when doing evaluations of institutional presidents; updating language to be consistent with replacing institutional and statewide report cards with a data reporting system in prior legislation; removing unnecessary language; declaring that the geographic areas of responsibility for the West Virginia School of Osteopathic Medicine, Marshall University, and West Virginia University are statewide; and removing requirement for Higher Education Policy Commission confirmation of campus development plans.

With the recommendation that the committee substitute 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

**Senate Bill 770**, Revising requirements for post-doctoral training.

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

**Com. Sub. for Senate Bill 770** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-14-2 and §30-14-4 of the Code of West Virginia, 1931, as amended, all relating to definitions and applications for licensure or educational permits for osteopathic physicians and surgeons;

revising requirements for post-doctoral training; and eliminating continuing medical education requirements for initial licensure.

And,

**Senate Bill 787**, Providing benefits to pharmacists for rendered care.

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

**Com. Sub. for Senate Bill 787** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for pharmacist care rendered within the pharmacist's scope of practice if benefits would be provided for such services performed by other health care providers; providing for reimbursement pursuant to negotiations; and providing for effective date.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Michael J. Maroney,  
*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 Bill 782**, Relating to fees assessed by Health Care Authority on certain hospitals.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 789**, Repealing obsolete sections of WV Code relating to Legislature.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

**Senate Bill 804**, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund.

And,

**Senate Bill 806**, Supplemental appropriation out of federal funds in Treasury to DOT.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 837** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-5A-1, §11-5A-2, §11-5A-3, §11-5A-4, §11-5A-5, §11-5A-6, §11-5A-7, §11-5A-8, and §11-5A-9; to amend and reenact §11-15-3 of said code; to amend and reenact §11-15A-2 of said code; and to amend and reenact §11-17-3 and §11-17-4b of said code, all relating to providing exemptions from ad valorem taxation for certain types of personal property and providing substitute revenue sources to levying bodies; setting out legislative findings; defining terms; setting out legislative intent; providing for an exemption from ad valorem taxation for property classified as manufacturing machinery, equipment, and inventory over a six-year period; setting out exclusions from the exemption; providing for exemption from ad valorem taxation on motor vehicles over a six-year period; providing for exemption from ad valorem taxation on retail inventory over a six-year period; requiring the Governor and Legislature appropriate replacement revenue to levying bodies; providing for a four-year lookback from effective date of provision; providing that the state share of the county's basic foundation will be replaced; providing that any general revenue bond or levy in existence shall not be effected; allowing for procedural rules; creating a special revenue account; providing for an effective date; making elimination of ad valorem taxes contingent upon passage of constitutional amendment; increasing tax levied and imposed on sales and service; making increase of tax levied and imposed on sales and service contingent upon passage of constitutional amendment; providing for an effective date for the sales and service tax increase; increasing levied and imposed use tax; making increase of imposed and levied use tax

contingent upon passage of constitutional amendment; providing for an effective date for the use tax increase; increasing excise tax levied and imposed on tobacco products; making increase excise tax levied and imposed on tobacco products contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on tobacco products increase; providing for apportionment of the increased revenue to be dedicated to a special account for tobacco use prevention, cessation, and nicotine treatment; increasing excise tax levied and imposed on sale of e-cigarette liquid; making increased excise tax levied and imposed on e-cigarette liquid contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on e-cigarette liquid; setting effective dates for tax increases; and providing additional tax revenue on tax increases be deposited in special revenue account.

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

**Senate Bill 838** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-55, relating to directing the State Police to establish a referral program for substance abuse treatment; exempting persons seeking treatment from arrest and prosecution; directing the destruction of controlled substances received from persons seeking treatment; requiring referrals to treatment of persons seeking same; specifying persons who are ineligible for referral; and immunizing the State Police and its employees civilly and criminally for making referrals



and exempting records of program from freedom of information disclosure.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Joint Resolution 9**, Motor Vehicle and Other Personal Property Tax Reduction Amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Swope, 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 19**, USMC LCpl Fred Michael Kerns Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 19** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 42-219/00-038.13 (42A139), locally known as Isner Creek Bridge,

carrying US 219 over Isner Creek in Randolph County, the “U.S. Marine Corps LCPL Fred Michael Kerns Memorial Bridge”.

Whereas, Fred Michael Kerns was born on October 15, 1948, in Weston, West Virginia, the son of Fred G. and Thelma Marie Glover Kerns; and

Whereas, Fred Michael Kerns was sworn into the United States Marine Corps after graduating from Buckhannon - Upshur High School in 1966, and commenced active duty in 1967; and

Whereas, On October 3, 1968, LCPL Fred Michael Kerns arrived in Vietnam, where he served as an air crewman aboard helicopters with Marine Light Attack Helicopter Squadron 167 (HML-167), Marine Air Group 16 (MAG-16), First Marine Air Wing, Third Marine Amphibious Force; and

Whereas, LCPL Fred Michael Kerns was killed on July 29, 1969, as a result of a nonhostile helicopter crash in Quam Nam Providence, South Vietnam; and

Whereas, LCPL Fred Michael Kerns was awarded the Air Medal, Combat Action Ribbon, Republic of Vietnam Campaign Medal, Vietnam Service Medal, National Defense Medal, Presidential Unit Citation, Vietnam Gallantry Cross Unit Citation, and Combat Aircrew Badge; and

Whereas, LCPL Fred Michael Kerns’ name is listed on the Vietnam Memorial Wall in Washington, D. C., Panel 20W, Line 71; and

Whereas, LCPL Fred Michael Kerns was one of several hundred West Virginia residents, and one of over 17 Randolph County residents, to make the ultimate sacrifice for his country during the Vietnam War. He is buried at the Masonic Cemetery, Weston, West Virginia; and

Whereas, LCPL Fred Michael Kerns, on the date of his death, left his father Fred Kerns, his mother Thelma Kerns, and three brothers: Terry Lee, Alan William, and Stephen Craig Kerns; and

Whereas, It is fitting that an enduring memorial be established to commemorate LCPL Fred Michael Kerns and his contributions and sacrifice 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 42-219/00-038.13 (42A139), locally known as Isner Creek Bridge, carrying US 219 over Isner Creek in Randolph County, the “U.S. Marine Corps LCPL Fred Michael Kerns 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. Marine Corps LCPL Fred Michael Kerns 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 committee substitute be adopted.

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Concurrent Resolution 27**, Requesting study on ways to make State Capitol building more handicap accessible.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Swope, 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. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

And has amended same.

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

Respectfully submitted,

Chandler Swope,  
*Vice 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 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

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 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. House Bill 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Romano, Facemire, and Unger offered the following resolution:

**Senate Resolution 47**—Recognizing the Clay County High School “We the People” team for winning its sixth consecutive West Virginia state championship.

Whereas, “We the People: The Citizen and the Constitution” is the flagship civic education program of the Center for Civic Education, a nonprofit, nonpartisan education organization that administers national and international civic education programs; and

Whereas, “We the People: The Citizen and the Constitution” was developed in 1987 and adopted by the Commission on the Bicentennial of the U.S. Constitution, chaired by Chief Justice Warren E. Burger, as the principal education program of the U.S. Constitution’s Bicentennial; and

Whereas, The “We the People” program culminates with a simulated congressional hearing during which students “testify” before a panel of judges acting as members of Congress; and

Whereas, Participating students must demonstrate a thorough knowledge and understanding of constitutional principles and evaluate, take, and defend positions relevant to historical and contemporary issues competing at local, congressional district, state, and national levels; and

Whereas, Participating high school classes in “We the People” compete from December to February in state competitions throughout the country and, each spring, the state champion and wild card classes are eligible to participate in the “We the People” National Finals in the Washington, D.C., area at the National Conference Center in Leesburg, Virginia. The competition culminates with a top-12 final round to determine the national winner; and

Whereas, Sixteen students enrolled in the fall 2019 Advanced Placement Government and Politics class at Clay County High School; and

Whereas, In June 2019, these Clay County High School Advanced Placement Government and Politics students began studying the United States Constitution extensively in preparation for the “We the People: The Citizen and the Constitution” competition; and

Whereas, Clay County High School advanced to the State “We the People” Competition on November 14, 2019, as the Congressional District 2 Champions; and

Whereas, Clay County High School were crowned State Champions of the “We the People” competition on January 24, 2020, by defeating Congressional District 1 Champion Tyler Consolidated and Congressional District 3 Champion Shady Springs High School; and

Whereas, Clay County High School has won six consecutive state championships in the “We the People” competition and, for the sixth straight year, will represent the State of West Virginia at the National “We the People: The Citizen and the Constitution Competition” in Washington D.C.; and

Whereas, The Advanced Placement Government and Politics class from Clay County High School is taught by Philip Dobbins who proudly serves as coach of the “We the People” team along with assistant coach Michael Mullins; and

Whereas, The Clay County High School students in the 2019-2020 Advanced Placement Government and Politics class and the “We the People” team members are: Kelsey Prather, Jaydin Cogar, Julia Holcomb, Caleb Atha, Nicholas Evans, Owen Nottingham, Elijah, Payton, Emily Hayes, Jefferson Hymer, Anastasia Knopp, Aden Knopp, Tyler Cummings, Hayden Morris, Zoe Davis, Austin Smith, and Autumn Stone; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Clay County High School “We the People” team for winning its sixth consecutive West Virginia state championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Clay County High School “We the People” team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 46,** Congratulating Victory Baptist Academy volleyball team for winning 2019 WV Christian Education Association state volleyball tournament.

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

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

On motion of Senator Takubo, at 11:40 a.m., the Senate recessed to present Senate Resolution 46.

The Senate reconvened at 11:45 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 6**, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 6) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 204**, Providing for nonpartisan elections of county prosecuting attorneys.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Facemire, Ihlenfeld, and Lindsay—4.



Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 204) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Facemire, Ihlenfeld, and Lindsay—4.

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. 204) takes effect from passage.

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

**Com. Sub. for Senate Bill 285**, Eliminating WV Greyhound Breeding Development Fund.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 18, 2020, for amendments to be received on third reading, was reported by the Clerk.

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

On page five, section three, after line fifty-nine, by inserting the following:

“(ii) For obtaining veterinary services, documented by veterinary reports;”.

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 285 was then read a third time and put upon its passage.

(Senator Trump in the Chair.)

Pending discussion,

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 285 pass?”

On this question, the yeas were: Azinger, Blair, Boley, Cline, Maynard, Roberts, Sypolt, Takubo, Tarr, Trump, and Carmichael (Mr. President)—11.

The nays were: Baldwin, Beach, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Unger, Weld, and Woelfel—23.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 285) rejected.

**Eng. Senate Bill 652**, Authorizing School Building Authority promulgate legislative rules.

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 Senate Bill 652 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 652) passed with its title.

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

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

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, Cline, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Clements, Hamilton, Maroney, Pitsenbarger, Romano, and Weld—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 655) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 686**, Exempting contract and common carrier laws for certain vehicles.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 686) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 719**, Imposing health care-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.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 719 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 719) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 719) takes effect July 1, 2020.

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

**Eng. Senate Bill 740**, Clarifying authorized users of Ron Yost Personal Assistance Services Fund.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 740) passed with its title.

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

**Eng. Senate Bill 747,** Requiring Bureau for Public Health develop Diabetes Action Plan.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 747) passed with its title.

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

**Eng. Senate Bill 748,** Increasing awareness of palliative care services.

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

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

Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 748) passed with its title.

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

**Eng. Senate Bill 767**, Relating to licensure of hospitals.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 767) 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 4026**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4026) passed with its title.

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

**Eng. House Bill 4501**, Relating to the ability to refuse offenders for commitment to a jail.

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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Baldwin—1.

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. 4501) 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 4501**—A Bill to repeal §62-6-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §15A-5-9 of said code; and to amend and reenact §62-1C-14 of said code, all relating to the ability to refuse offenders for commitment to a jail; authorizing the acceptance of certain offenders refusing ordered examination or medical treatment; granting civil and criminal immunity to the division, the commissioner, employees and agents of the division for accepting offenders who refuse a medical examination or medical treatment; and clarifying conditions and circumstances under which division employees accept or refuse to accept offenders brought to a regional jail pursuant to a bailpiece.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: Baldwin—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4501) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.

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

**Com. Sub. for Senate Bill 502**, Relating to methamphetamine criminal penalty.

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

**Senate Bill 562**, Expunging certain criminal convictions.

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

**Senate Bill 610**, Removing resident manager requirement for Alcohol Beverage Control Administration.

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

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

On pages one through six, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

## **CHAPTER 11. TAXATION.**

### **ARTICLE 16. NONINTOXICATING BEER.**

#### **§11-16-3. DEFINITIONS.**

For the purpose of this article, except where the context clearly requires differently:

(1) “Brand” means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled or otherwise produced, imported, or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold

in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) “Brewer” or “manufacturer” means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer’s license for its nonintoxicating beer or nonintoxicating craft beer.

(3) “Brewpub” means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and guidelines, a portion of which premises is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) “Class A retail license” means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet licensed pursuant to chapter 60 of this code.

(5) “Class B retail license” means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to chapter 60 of this code.

(6) “Commissioner” means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) “Distributor” means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business shall be within this state. For purposes of a distributor only, the term “person” means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful

acts or violations of §11-11-1 et seq. of this code notwithstanding the liability of trustees in §44D-10-1 et seq. of this code.

(8) “Franchise agreement” means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which agreement has been approved by the commissioner. The franchise agreement binds the parties so that a distributor, appointed by a brewer, may distribute all of the brewer’s nonintoxicating beer products, brands or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer’s assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all of its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) “Franchise distributor network” means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer as specified in §11-16-21(a)(2) of this code shall continue to maintain and be bound by the selling brewer’s separate franchise distributor’s network for any of its existing brands, line extensions, and new brands.

(10) “Freestanding liquor retail outlet” means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) “Growler” means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a tamper-resistant seal, security tape, or other material, as approved by the commissioner, placed on or over the growler’s opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) “Line extension” means any nonintoxicating beer product that is an extension of brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer’s existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) “Manager” means an individual who is the applicant’s or licensee’s on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-

16-1 et seq. of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

~~(13)~~ (14) “Nonintoxicating beer” means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than 11.9 percent of alcohol by weight, or 15 percent alcohol by volume, whichever is greater. The word “liquor” as used in chapter 60 of this code does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

~~(14)~~ (15) “Nonintoxicating beer floor plan extension” means a temporary one-day extension of an existing Class A licensee’s floor plan to a contiguous, adjoining and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee’s licensed premises; further ~~such~~ the license shall be endorsed or approved by the county or municipality where the license is located; ~~such~~ the license shall be in good standing with the commissioner, and further such temporary event shall cease on or before midnight of the approved temporary one-day event.

~~(15)~~ (16) “Nonintoxicating beer sampling event” means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.

~~(16)~~ (17) “Nonintoxicating beer sampling day” means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and is approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

~~(17)~~ (18) “Nonintoxicating craft beer” means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than 15 percent alcohol by volume or 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

~~(18)~~ (19) “Original container” means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

~~(19)~~ (20) “Person” means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

~~(20)~~ (21) “Private club” means a license issued pursuant to §60-7-1 et seq. of this code.

~~(21)~~ (22) “Resident brewer” means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia and which does not brew or manufacture more than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually.

~~(22)~~ (23) “Retailer” means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

~~(23)~~ (24) “Tax Commissioner” means the Tax Commissioner of the State of West Virginia or the commissioner’s designee.;

On pages six through eight, section eight, lines three through thirty-six, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

“(1) The name and residence of the applicant, the duration of such residency, ~~that the applicant has been a resident of the state for a period of two years preceding the date of the application and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers for a period of two years preceding the date of such application.~~ If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, ~~such~~ the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the activities of the limited liability company, association or trust relating to the license, shall ~~state under oath that each has been a bona fide resident of the state for four years preceding the date of such~~ include the residency for these persons on the application. All applicants and licensees must include a manager on the applicant’s license application, or a licensee’s renewal application who must meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, being a suitable person, being of good morals and character, and other requirements, all as set forth in this article and the rules, promulgated thereunder, all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of



the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust must state that ~~such~~ the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of ~~such~~ the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number and birth date;"

On page ten, section eight, lines one hundred three through one hundred six, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or”;

And,

On pages sixteen through twenty-one, by striking out all of section five and inserting in lieu thereof a new section, designated section five, to read as follows:

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§60-1-5. Definitions.**

For the purposes of this chapter:

(1) “Alcohol” ~~shall~~ means ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

(2) “Alcoholic liquor” includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.

(3) “An agency” means a drugstore, grocery store, or general store designated by the commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(4) “Beer” means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(5) “Brewery” means an establishment where beer is manufactured or in any way prepared.

(6) “Commissioner” or “commission” means the West Virginia Alcohol Beverage Control Commissioner.

(7) “Department” means the organization through which the commission exercises powers imposed upon it by this chapter.

(8) “Distillery” means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.

(9) “Intoxicated” means a person’s faculties are impaired by alcohol or other substance to the point where physical or mental control or both are markedly diminished.

(10) “Manager” means an individual who is the applicant’s or licensee’s on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-16-1 *et seq.* of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions

involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(11) “Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.

(12) “Manufacturer” means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer.

(13) “Nonintoxicating beer” means any beverage obtained by the fermentation of barley, malt, hops, or similar products or substitute, and containing not more alcohol than that specified by §11-16-2 of this code.

(14) “Original package” means any closed or sealed container or receptacle used for holding alcoholic liquor.

(15) “Person” means an individual, firm, partnership, limited partnership, corporation, or voluntary association.

(16) “Powdered alcohol” means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes.

(17) “Public place” means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies, and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: *Provided*, That the term “public place” shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this chapter to sell alcoholic liquors for consumption on the premises: *Provided, however*, That the term “public place” shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premise that qualifies and is licensed under the provisions of this chapter to sell alcoholic liquors for consumption thereupon:

Provided further, That the term “public place” shall not include a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium which holds a special license to sell wine pursuant to the provisions of §60-8-3 of this code, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.

(18) “Sale” means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by a principal, proprietor, agent, or employee.

(19) “Selling” includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.

(20) “Spirits” means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials, and gin.

(21) “State liquor store” means a store established and operated by the commission under this chapter for the sale of alcoholic liquor in the original package for consumption off the premises.

(22) “Wine” means any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.

(23) “Winery” means an establishment where wine is manufactured or in any way prepared.

~~“Spirits” means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials and gin.~~

~~“Alcoholic liquor” includes alcohol, beer, wine and spirits and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.~~

~~“Original package” means any closed or sealed container or receptacle used for holding alcoholic liquor.~~

~~“Sale” means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by principal, proprietor, agent or employee.~~

~~“Selling” includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.~~

~~“Person” means an individual, firm, partnership, limited partnership, corporation, or voluntary association.~~

~~“Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.~~

~~“Manufacturer” means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer.~~

~~“Brewery” means an establishment where beer is manufactured or in any way prepared.~~

~~“Winery” means an establishment where wine is manufactured or in any way prepared.~~

~~“Distillery” means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.~~

~~“Public place” means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies, and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: *Provided*, That the term “public place” shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this chapter to sell alcoholic liquors for consumption on the premises: *Provided, however*, That the term “public place” shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food~~

~~that directly connects and adjoins any portion or portions of a premises that qualifies and is licensed under the provisions of this chapter to sell alcoholic liquors for consumption thereupon: *Provided further*, That the term "public place" shall also not include a facility constructed primarily for the use of a Division I college that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer or other Division I sports stadium which holds a special license to sell wine pursuant to the provisions of §60-8-3 of this code, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.~~

~~"State liquor store means a store established and operated by the commission under this chapter for the sale of alcoholic liquor in the original package for consumption off the premises.~~

~~"An agency" means a drugstore, grocery store, or general store designated by the commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commissioner.~~

~~"Department" means the organization through which the commission exercises powers imposed upon it by this chapter.~~

~~"Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.~~

~~"Intoxicated" means having one's faculties impaired by alcohol or other drugs to the point where physical or mental control or both are markedly diminished.~~

~~"Powdered alcohol" means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes~~

The bill (S. B. 610), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 692**, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial.

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

**Com. Sub. for Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

**Com. Sub. for Senate Bill 253**, Providing for fair pay and maximized employment of disabled persons.

**Senate Bill 651**, Relating to definition of "mortgage loan originator".

**Com. Sub. for Senate Bill 660**, Regulating electric bicycles.

**Eng. House Bill 4149**, Relating to insurance.

**Eng. House Bill 4359**, Increasing the filing fees for insurers.

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

And,

**Eng. House Bill 4515**, Relating to wildlife resources, eligibility for license or permit application.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Tarr.

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

The Senate proceeded to the thirteenth order of business.

Senator Carmichael (Mr. President) announced the replacement of Senator Blair as Vice Chair of the Committee on Education with Senator Weld.

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

**Com. Sub. for Senate Bill 130:** Senator Romano;

**Senate Bill 735:** Senator Ihlenfeld;

And,

**Senate Bill 744:** Senator Lindsay.

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

**Com. Sub. for Senate Bill 130:** Senator Baldwin;

**Com. Sub. for Senate Bill 253:** Senators Romano, Lindsay, and Rucker;

**Com. Sub. for Senate Bill 269:** Senators Cline and Jeffries;

**Com. Sub. for Com. Sub. for Senate Bill 579:** Senator Roberts;

**Com. Sub. for Senate Bill 660:** Senator Cline;

**Senate Bill 698:** Senator Woelfel;

**Com. Sub. for Senate Bill 707:** Senator Stollings;

**Senate Bill 727:** Senator Plymale;

**Senate Bill 752:** Senator Romano;

**Senate Bill 755:** Senators Romano and Plymale;



**Senate Bill 756:** Senator Romano;

**Com. Sub. for Senate Bill 770:** Senator Plymale;

**Senate Bill 782:** Senator Plymale;

**Senate Bill 783:** Senator Plymale;

**Senate Bill 787:** Senator Plymale;

**Senate Bill 797:** Senators Cline and Stollings;

**Senate Bill 798:** Senators Cline, Stollings, and Romano;

**Senate Bill 799:** Senator Cline;

**Senate Bill 800:** Senator Smith;

**Senate Bill 801:** Senators Stollings and Romano;

**Senate Bill 807:** Senators Lindsay, Stollings, Romano, Plymale, and Woelfel;

**Senate Bill 808:** Senator Unger;

**Senate Bill 809:** Senator Plymale;

**Senate Bill 814:** Senator Hamilton;

**Senate Bill 815:** Senator Cline;

**Senate Bill 818:** Senator Cline;

**Senate Bill 820:** Senator Cline;

**Senate Bill 822:** Senator Woelfel;

**Senate Bill 823:** Senators Lindsay, Ihlenfeld, Plymale, and Unger;

**Senate Bill 824:** Senators Lindsay and Woelfel;

**Senate Bill 826:** Senator Plymale;

**Senate Bill 827:** Senators Lindsay and Romano;

**Senate Bill 828:** Senators Lindsay and Woelfel;

**Senate Bill 831:** Senator Cline;

**Senate Bill 835:** Senator Woelfel;

**Senate Bill 836:** Senator Woelfel;

**Senate Concurrent Resolution 39:** Senators Beach, Jeffries, and Unger;

**Senate Resolution 45:** Senators Cline, Lindsay, Jeffries, and Unger;

And,

**Senate Resolution 46:** Senators Cline, Rucker, and Unger.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:52 p.m., the Senate adjourned until tomorrow, Thursday, February 20, 2020, at 11 a.m.

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## THURSDAY, FEBRUARY 20, 2020

The Senate met at 11:14 a.m.

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

Prayer was offered by Dr. D. W. Cummings, Senior Pastor, Bethlehem Apostolic Temple, Wheeling, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Wednesday, February 19, 2020,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2028**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to public service districts' laying of water or sewer lines on state rights-of-way; limiting the onsite time required supervision by a state engineer; requiring payment and performance bonds to cover a reasonable length of time for defects to be discovered; requiring public service districts to notify municipalities or county commissions; requiring the public service district to allow the local government unit to install a fiber optics cable or conduit suitable for future installation of fiber optic cable; and requiring the local governmental unit to pay for the costs of installation of the cable or conduit and shall own and control its use.

Referred to the Committee on Transportation and Infrastructure.

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

**Eng. Com. Sub. for House Bill 4092**—A Bill to repeal §49-2-102, and §49-2-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-108, §49-2-110, §49-2-111, §49-2-111a, §49-2-112, §49-2-118, §49-2-121, §49-2-124, and §49-2-126 of said code; to amend said code by adding thereto two new sections designated, §49-2-127, §49-2-128, and §49-2-129; and to amend

and reenact §49-4-604, of said code; all relating to foster care; defining terms; increasing the number children allowed in a foster care family; setting forth the requirements of performance based contracting; requiring certain moneys to be used in setting the rate for performance based contracting; requiring the department to create a tiered reimbursement model; setting payment minimums; providing rulemaking authority; establishing the rights of foster children; establishing the rights of foster parents; establishing the rights of certified kinship placements; setting forth the reasonable and prudent parent standard; establishing criteria for scattered-site living arrangements; establishing the criteria for supervised group settings; requiring the department promulgate emergency rules; setting forth reporting requirements of a guardian ad litem; and removing non applicable language from the code.

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

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

**Eng. Com. Sub. for House Bill 4099**—A Bill to repeal §30-27-11a of the code of West Virginia, 1931, as amended; to amend and reenact §30-27-1 and §30-27-3 of said code; all relating to eliminating the regulation of shampooing and eliminating the permit requirement for shampoo assistants.

Referred to the Committee on Government Organization.

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

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of

a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Takubo, and Jeffries.

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

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, of

**Eng. House Bill 4353**, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making.

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

**Eng. House Bill 4450**—A Bill to amend and reenact §17B-2-5 of the Code of West Virginia, 1931, as amended, relating to instruction permits issued by the Division of Motor Vehicles; and changing the expiration date of instruction permits issued to persons who have reached the age of 18 years from 90 days to six months.

Referred to the Committee on Transportation and Infrastructure.

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

**Eng. House Bill 4499**—A Bill to amend and reenact §20-17-7, §20-17A-2 and §20-17A-3 of the Code of West Virginia, 1931, as amended, all relating to multicounty trail network authorities and the Mountaineer Trail Network Recreation Authority.

Referred to the Committee on Natural Resources.

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

**Eng. House Bill 4504**—A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to renewal application requirements for individuals with permanent disabilities.

Referred to the Committee on Transportation and Infrastructure.

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

**Eng. Com. Sub. for House Bill 4537**—A Bill to amend and reenact §20-7-23 of the Code of West Virginia, 1931, as amended, relating to allowing boats with motors larger than 10 horsepower to idle on the Upper Mud River Lake; and requiring the Division of Natural Resources to create special permits for 100 boaters.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 4543**—A Bill to repeal an article designated §33-15C-1 of the Code of West Virginia, 1931, as amended; to amend said code by repealing one section , designated §33-16-16, of said code; to amend said code by adding thereto a new article designated, §33-53-1, of said code; and to amend and reenact two sections designated §5A-3-1a and §5-16-7, of said code, all relating to insurance coverage for diabetics.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 4620**—A Bill to amend and reenact §16-59-2 of the Code of West Virginia, 1931, as amended; relating to certification of recovery residences; and clarifying that building code applies to certain structures; and clarifying that fire code applies to certain structures.

Referred to the Committee on Health and Human Resources.

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

**Eng. House Bill 4714**—A Bill to amend and reenact §29-19-6 of the Code of West Virginia, 1931, as amended, relating to increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization to be consistent with the United States Internal Revenue Service and other states;

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 4734**—A Bill to repeal §30-7-1a, §30-7-6a, §30-7-6b, §30-7-8a, §30-7-11a, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, and §30-7-15e of the Code of West Virginia, 1931, as amended; to repeal §30-7E-1, §30-7E-2, and §30-7E-3 of said code; to amend said code by adding thereto a new section, designated §16-5B-19; to amend and reenact §30-7-1, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-7, §30-7-8, §30-7-9, §30-7-10, §30-7-11, §30-7-12, §30-7-13, §30-7-14, §30-7-16, §30-7-17, §30-7-18, §30-7-19, and §30-7-20 of said code; to amend said code by adding thereto 11 new sections, designated §30-7-21, §30-7-22, §30-7-23, §30-7-24, §30-7-25, §30-7-26, §30-7-27, §30-7-28, §30-7-29, §30-7-30, and §30-7-31, all relating to

the Board of Nursing, prohibiting the practice of nursing without a license; providing other applicable sections; defining terms; renaming the board; providing for board composition and qualifications; setting forth the powers and duties of the board; clarifying rule-making authority; continuing a special revenue account; establishing license and permit requirements; establishing qualifications for licensure; codifying a scope of practice; creating a temporary permit; providing for reciprocal licensure; establishing renewal requirements; providing for exemptions from licensure; creating a special volunteer license; continuing a Joint Advisory Council; providing the council's composition; providing council members' terms; providing powers of the council; providing duties of the council; setting forth limitations of the article; permitting the board to file an injunction; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal offenses are to be reported to law enforcement; providing criminal penalties; repealing expired authority; and updating references.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 4773**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5AA-1, all relating to creating a workgroup to study protocols for adverse childhood trauma in this state; designating members of workgroup; providing for duties of workgroup; providing that the West Virginia Bureau of Public Health shall provide staff for the workgroup; providing for public hearings; and providing for the submission of a final report to the Legislature.

Referred to the Select Committee on Children and Families.



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

**House Concurrent Resolution 4**—Requesting the Division of Highways name bridge number 20-77/1-0.70 (20A237), locally known as Lower Fields Creek Bridge, carrying County Route 71/1 over Fields Creek in Kanawha County, the “U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 13**—Requesting the Division of Highways name a portion of WV Route 42 in Mineral County from its intersection with WV Route 46 in Elk Garden to the West Virginia/ Maryland border, the “Watts Brothers Veterans Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 14**—Requesting the Division of Highways name bridge number 18-25/1-1.50 (18A261), locally known as Tug Fork Box Beam Bridge, carrying CR 25/1 over the Tug Fork of Mill Creek in Jackson County, the “U. S. Army, Staff Sargent Wendell Otho Casto Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 17**—Requesting the Division of Highways name bridge number 21-15-2.39 (21A165), locally known as Vandalia Bridge, carrying County Route 15 over Skin Creek in Lewis County, the “U. S. Army PFC William E. “Ed” Smith and WVARNG SSG Edward L. “Eddie” Smith Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 19**—Requesting the Division of Highways name that portion of West Virginia Route 3 beginning at its intersection with Keenan Road and ending at Gap Mills in Monroe County, the “Gold Star Families Highway”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 20**—Requesting the Division of Highways name bridge number 18-77-119.23 NB & SB(18A147, 18A148), Lat/Long: 38.58855, -81.64116 locally known as Spicewood Bridges NB & SB, carrying Interstate 77 over Spicewood Branch and CR 21/34 in Jackson County, the “U. S. Army PFC James Ray Miller Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 21**— Requesting the Division of Highways name bridge number 44-79—25 79 NB & SB (34A124, 34A135), locally known as the Amma/Big Sandy Creek Bridge, carrying Interstate 79 South over Big Sandy Creek and County Route 29 in Roane County, the “U. S. Army SPC Franklin D. Ashley II Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 32**— Requesting the Division of Highways name bridge number 6-39-0.01, currently under construction, at the mouth of Mount Union Road at Route 10, in Cabell County, the “Six Wolfe Brothers WW II Era Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 33**— Requesting the Division of Highways to name bridge number 17-79-119.96 (17A318), locally known as Lodgeville I-79 Bridge, carrying Interstate 79 over CR 50/16, 50/25 and railroad in Harrison County, the “U.S.A.F. LTC Frederick Donald Belknap Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 34**—Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 35**—Requesting the Division of Highways to name bridge number 21-1-4.66 (21A212), locally known as Horse Run W-Beam Bridge, carrying County Route 1 over Freemans Creek in Lewis County, the “U.S. Navy BT 2nd Wade E. Burnside Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 38**—Requesting the Division of Highways to name a portion of County Route 1/2, Costa Road, near Costa, Boone County, W.Va., beginning at point (38.16421297" N) (-81.71190007W), at the intersection of Secondary Rt. 1, Ashford Nellis Rd., and Costa Rd., County Route 1/2, and ending at point (38.16056707N) (-81.7041669W), traveling approximately .75 miles, the “U. S. Army PFC Nile C. Ballard Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 39**—Requesting the Division of Highways name a portion of Ritchie CR 16/35, known locally as School Road, beginning at the junction of WV 16 (MP 0,00) and ending at the junction of US 50 (MP.0.75) Ritchie County, the “Coach Kenny Wright Road”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 45**—Requesting the Division of Highways name bridge number 20-11-1.21 (20A854), locally known as Alum Creek Bridge 1.21, carrying County Route 11 over Alum Creek in Kanawha County, the “U. S. Army Sgt John Matthew Tully Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 52**—Requesting the Division of Highways name bridge number 43-50-10.01 EB & WB (43A198, 43A199), (39.25868, -81.10639) locally known as Bonds Creek Bridges, carrying US 50 over Bonds Creek in Ritchie county, the “U. S. Army PFC Paul Eugene Gregg Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 53**—Requesting the Division of Highways name bridge number 13-60-34.93 (13A114), locally known as Caldwell Bridge, carrying U. S. Route 60 over the Greenbrier River in Greenbrier County, the “U. S. Army Air Corps T SGT Ralph H. Ray Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 54**—Requesting the Division of Highways name bridge number 12-042/06-003.19 (12A128), locally known as Possum Hollow Bridge, carrying County Route 42/6 over North Fork Lunice Creek in Grant County, West Virginia, the “U.S. Army PFC Marvin K. “Sonny” Sherman Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 55**—Requesting the Division of Highways name bridge number 36-009/00-00.13 (36A146), locally known as Riverton Truss, carrying County Route 9 over the North Fork of the South Branch of the Potomac River in Pendleton County, the “Pendleton County Veterans Killed in Action Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 62**—Requesting the Division of Highways name bridge number 22-007/00-021.18 (22A153), (38.22218, -82.11335) locally known as Myra Pony Truss, carrying CR 7 over Mud River in Lincoln County, the “USMC Cpl Guy Maywood Edwards Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 65**—Requesting the Division of Highways name bridge number 22-037/00-004.35 (22A059), (38.10346, -82.17775) locally known as East Fork Bridge, carrying WV 37 over East Fork in Lincoln County, the “U. S. Army TEC5 Donald “Tiny” Lucas Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 70**—Requesting the Division of Highways name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the “U. S. Army Air Corps Private Albert J. Sutphin Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 38** (originating in the Committee on Education), Requiring schools provide elective course on Hebrew Scriptures or Bible.

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

**Com. Sub. for Com. Sub. for Senate Bill 38** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9a, relating to allowing county boards of education to offer students in grade nine or above an elective social studies course on sacred texts or comparative world religions; permitting a student to use a translation of his or her choice; requiring county board of education to submit to the West Virginia Department of Education the course standards, including the teacher qualifications and required professional development; and imposing requirements applicable to the course, the county board of education, and the State Board of Education.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 213**, Relating to administration of trusts.

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



**Com. Sub. for Senate Bill 213** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-6-603 of said code; to amend and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code; and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration of trusts; definitions; default and mandatory rules; principal place of administration; grantor's powers and powers of withdrawal; cotrustees; powers to direct; and enacting the West Virginia Uniform Directed Trust Act which specifies how trust directors can act concerning trusts in this state.

And,

**Senate Bill 772**, Clarifying American Law Institute's Restatements of Law.

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

**Com. Sub. for Senate Bill 772** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-1-3, relating to clarifying that the Restatements of the Law and other legal treatises are not controlling authority.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 246**, Including family court judges in retirement system for judges.

**Com. Sub. for Senate Bill 614**, Changing method of allocating funding from Safe School Funds.

**Senate Bill 816**, Updating North American Industry Classification System code references.

And,

**Senate Bill 828**, Clarifying municipal B&O taxation where business activity occurs.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Economic Development has had under consideration

**Senate Bill 514**, Creating WV FinTech Regulatory Sandbox Act.

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

**Com. Sub. for Senate Bill 514** (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to the West Virginia FinTech Regulatory Sandbox Program;

defining terms; establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without first obtaining licensure pursuant to the laws of the state; establishing scope of the ability to operate without otherwise being licensed with respect to approved financial products or services; providing consumer protections; establishing time limitations on the ability to operate without otherwise being licensed with respect to approved financial products or services; providing program exit requirements; providing program extension; providing reporting requirements; defining terms; and providing for rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 530**, Relating to taxation of aircraft.

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

**Com. Sub. for Senate Bill 530** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to taxation of aircraft; exempting from sales and service tax aircraft sold in this state and removed from the state within 60 days; and providing conditions of exemptions.

And,

**Senate Bill 793**, Relating to B&O taxes imposed on certain coal-fired electric generating units.

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

**Com. Sub. for Senate Bill 793** (originating in the Committee on Finance)—A Bill to amend and reenact §11-13-2q of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-2r, all relating to business and occupation taxes imposed on operators of certain coal-fired electric generating units located in this state; clarifying application of certain sections of code; providing for recomputation of taxable generating capacity of certain coal-fired electric generating units for business and occupation tax purposes under certain circumstances; defining certain terms, imposing recapture tax under certain circumstances; and specifying effective dates.

With the recommendation that the two committee substitutes 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

**Senate Bill 635**, Allowing administration of small estates.

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

**Com. Sub. for Senate Bill 635** (originating in the Committee on the Judiciary)—A Bill to repeal §44-1-28 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §44-1A-1, §44-1A-2, §44-1A-3, §44-1A-4, §44-1A-5, and §44-1A-6, all relating to allowing the administration of small estates containing under \$50,000 in personal property and under \$100,000 in real property by affidavit and without appointment of a personal representative; providing a

mechanism for administration of a small estate upon affidavit and without appointment; detailing methods for payment or delivery of small assets to authorized successors; discharging and releasing payors; detailing treatment of real estate in a small estate; providing for the applicability of this article in relation to other sections of the West Virginia Code; providing an effective date; and allowing payment or delivery of small assets of a decedent to an authorized successor.

And,

**Senate Bill 668**, Enacting Uniform Trust Decanting Act.

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

**Com. Sub. for Senate Bill 668** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44D-8B-1, §44D-8B-2, §44D-8B-3, §44D-8B-4, §44D-8B-5, §44D-8B-6, §44D-8B-7, §44D-8B-8, §44D-8B-9, §44D-8B-10, §44D-8B-11, §44D-8B-12, §44D-8B-13, §44D-8B-14, §44D-8B-15, §44D-8B-16, §44D-8B-17, §44D-8B-18, §44D-8B-19, §44D-8B-20, §44D-8B-21, §44D-8B-22, §44D-8B-23, §44D-8B-24, §44D-8B-25, §44D-8B-26, §44D-8B-27, §44D-8B-28, §44D-8B-29, §44D-8B-30, and §44D-8B-31, all relating to enactment of the Uniform Trust Decanting Act to allow a trustee to distribute assets of one trust into another trust; providing a short title; defining terms; setting forth the scope of the act; setting forth a fiduciary's duty and the fiduciary's authority to exercise the decanting power; setting forth those trusts to which the act applies; providing for actions or failure to act as a result of reasonable reliance; requiring fiduciary to give notice containing specified information to certain persons before exercising decanting power; providing for notice to representatives and consent of or waiver by a representative; providing for court involvement upon application by a fiduciary or other specified persons; specifying actions which the court may take; requiring a signed record of any exercise of the decanting power; providing for fiduciary's decanting power under expanded distributive discretion and setting forth restrictions on a second

trust; providing for fiduciary's decanting power under expanded limited distributive discretion; providing when a special-needs fiduciary may exercise the decanting power for a beneficiary with a disability; requiring fiduciary to protect charitable interests; setting forth first trust limitations which affect decanting; setting forth limitations on a change in a fiduciary's compensation; providing for relief from liability and indemnification of the fiduciary in the second trust instrument; providing for the removal or replacement of an authorized fiduciary through exercise of the decanting power; setting forth tax-related limitations; providing for the duration of the second trust; providing that distribution is not required; setting forth saving provision where second trust does not comply with the act; setting forth requirements regarding a trust for the care of an animal; providing for second trust terms; providing grantor of the first trust is a grantor of the second trust; providing for later-discovered property; providing that obligations of the first trust are obligations of the second trust; providing that application and construction of the act is to be uniform; relating to application of federal act to electronic signatures; and providing for severability and an effective date.

With the recommendation that the two committee substitutes 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

**Senate Bill 700**, Exempting physicians from specified traffic laws when responding to emergencies.

And,

**Senate Bill 827**, Relating to protection and repair of damage caused by oil and gas industry to state roads.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 739**, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities.

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

**Com. Sub. for Senate Bill 739** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-18 of said code; to amend and reenact §8-19-4 of said code; to amend and reenact §8-20-10 of said code; to amend and reenact §16-13-16 of said code; to amend and reenact §16-13A-9 of said code; to amend and reenact §24-2-1, §24-2-4a, and §24-2-11 of said code; to amend said code by adding thereto a new article, designated §24-2H-1, §24-2H-2, §24-2H-3, §24-2H-4, §24-2H-5, §24-2H-6, §24-2H-7, §24-2H-8, and §24-2H-9; and to amend and reenact §31-15A-9 of said code, all relating to authorizing the Public Service Commission to protect the consumers of distressed and failing water and wastewater utilities by ordering various corrective measures up to and including

acquisition of a failing utility by a capable water or wastewater utility; clarifying Public Service Commission jurisdiction over water and sewer utilities owned by political subdivisions; establishing uniformity in the class of publications required by municipalities and public service districts for the revision in rates; providing a time period for the filing of and resolution of complaints filed at the Public Service Commission regarding actions of public service districts and municipalities; cleaning up language regarding reference to other sections of the code regarding notice requirements for municipal utilities; regarding time period pertaining to the filing of appeals and the resolution of appeals for rate and construction projects decided by county commissions; adding language to allow the commission to order the acquisition of failing water and wastewater utilities; and allowing water and/or wastewater utilities access to public funds at below market-rates and grants to repair, replace, and improve acquired failing utilities.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Economic Development has had under consideration

**Senate Bill 800**, Authorizing electric utilities construct and operate project within electric utility distribution system.

And,

**Senate Bill 831**, Clarifying Economic Development Authority board enter into contracts necessary to carry out duties.



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

Respectfully submitted,

Chandler Swope,  
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

**Senate Bill 819**, Relating to DOH management of Coal Resource Transportation roads.

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

**Com. Sub. for Senate Bill 819** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17C-17A-2, §17C-17A-3, §17C-17A-5, and §17C-17A-12 of the Code of West Virginia, 1931, as amended, all relating to coal resource transportation roads; defining certain terms; expanding coal resource transportation road system; updating reporting requirements for Division of Highways and Public Service Commission; updating maximum distance for special crossing permits; updating process for designation and decertification of coal resource transportation roads; renaming Coal Resource Transportation Designation Committee as Coal Resource Transportation Advisory Committee and redefining authority; and correcting technical errors.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

Senator Roberts, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

**Senate Bill 839** (originating in the Committee on the Workforce)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1D-11, relating to creating the State Advisory Council on Postsecondary Attainment Goals; designating members of the council; providing for the powers and duties of the council; requiring certain state agencies to cooperate with the council; and establishing a sunset date for the council.

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

Respectfully submitted,

Rollan A. Roberts,  
*Chair.*

Senator Swope, 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 17**, USMC PFC Manuel P. Markos Memorial Bridge.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Chandler Swope,  
*Vice 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 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Eng. House Bill 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

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

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Mann, Carmichael (Mr. President), Baldwin, Blair, Jeffries, Prezioso, Romano, Swope, Takubo, and Weld offered the following resolution:

**Senate Concurrent Resolution 42**—Requesting the Division of Highways name bridge number 32-025/00-005.38 (32A098), locally known as Hans Creek Bridge, carrying CR 25 over Hans

Creek in Monroe County, the “U.S. Army CPL Richard ‘Warren’ Ellison Memorial Bridge”.

Whereas, Richard “Warren” Ellison was born December 29, 1924, at home in the “Big House” on the family farm at Hans Creek, West Virginia, the son of the late Addison Dunlap and Emma Catherine Kyle Ellison. In his early days, Warren attended a one room schoolhouse on Hans Creek, then when the family moved to Morgantown, he attended Elementary and Junior High Schools there. From Morgantown, he moved with his sister, Catherine, to the Roanoke-Salem, Virginia area and graduated in 1942 from Andrew Lewis High School in Salem, Virginia. In 1943 he married the love of his life, Juliet “Judy” Ellen Kuhn of Huntington, West Virginia; and

Whereas, Warren was inducted into the U.S. Army in September of 1944. Warren served in the Pacific Theatre during World War II on Okinawa and in the Philippines until he was Honorably Discharged in November of 1946, the rank of corporal; and

Whereas, Warren furthered his education in 1947 in agriculture at West Virginia University. He was a member of the WV Farm Bureau since 1959, serving as secretary and treasurer. He was a member and elder of the Centerville Presbyterian Church at Greenville, West Virginia. He was a director and Chairman of the Board of the Bank of Greenville and served as a supervisor for the Greenbrier Valley Soil Conservation District for eight years and for one term as county committeeman for the Farmer’s Home Administration. Part of his involvement with the Extension was as a 4-H Leader for the Handy Hans 4-H Club for many years, and his other community involvement was extensive. Warren had dedicated his entire life to farming, his family, and helping others. He, along with his son Bert, has owned and operated the family farm on Hans Creek, West Virginia, that was designated a “Bicentennial Farm” in 1988 with emphasis on beef cattle production and Holstein heifer calves as dairy herd replacements. Warren was the sixth-generation farm owner. A long time ago, as a third grader in a city school, Warren’s teacher asked the class, “what do you want to be when you grow up?” Warren’s answer

then without a moment's hesitation was, "A Farmer!", and the rest was history; and

Whereas, Richard "Warren" Ellison, age 94, of "Hans Creek", Greenville, West Virginia, passed away on Tuesday, March 12, 2019 at Springfield Center at Lindside, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army CPL Richard "Warren" Ellison 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 32-025/00-005.38 (32A098), locally known as Hans Creek Bridge, carrying CR 25 over Hans Creek in Monroe county the "U.S. Army CPL Richard 'Warren' Ellison 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 CPL Richard 'Warren' Ellison 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.

Which, under the rules, lies over one day.

Senators Swope and Maynard offered the following resolution:

**Senate Resolution 48**—Recognizing the 125th anniversary of Bluefield State College.

Whereas, Senate Bill 122 was introduced into the West Virginia Senate by Mercer County State Senator William Mahood on February 1, 1895, providing expanded educational opportunities for the Mountain State's individuals of color; and

Whereas, Senate Bill 122 passed both chambers of the State Legislature on February 21, 1895, and advanced to the desk of

West Virginia Governor William McCorkle, who neither signed nor vetoed the bill. As a result, Senate Bill 122 became law 60 days after passage in both chambers; and

Whereas, Senate Bill 122 established a school in Bluefield, “to be called ‘Bluefield Colored Institute,’” and a sum of eight thousand dollars in state funding was designated for the purpose of a site for the school and construction of buildings; and

Whereas, Bluefield Colored Institute began serving its first class of students on September 1, 1896, and embraced its academic mission with passion and an entrepreneurial spirit, embodied by its Industrial Arts program, whose students built many of the structures in which they studied and lived on campus; and

Whereas, Bluefield Colored Institute soon evolved into a normal school, Bluefield State Teachers College, then further diversified its curriculum through offer several high-demand, career-focused degree programs, and the Institute was, as a result, renamed Bluefield State College; and

Whereas, Throughout its 125-year history, Bluefield State College has served the residents of the state, nation, and world with distinction, holding 12 program specific academic accreditations, winning two world robotics championships, and equipping students for successful careers in STEM reliant careers, education, and liberal arts; and

Whereas, Bluefield State College students, employees, and alumni, through the insight of the College’s Board of Governors and the vision and leadership of the College’s administration, take an active role in volunteerism and community engagement; and

Whereas, The year 2020 marks the 125th anniversary of Bluefield State College’s founding; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the 125th anniversary of Bluefield State College; and, be it

*Further Resolved*, That the Senate extends its sincere appreciation and gratitude to Bluefield State College for its contributions to the state of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the president of Bluefield State College, Robin Capehart.

Which, under the rules, lies over one day.

Senators Jeffries and Lindsay offered the following resolution:

**Senate Resolution 49**—Designating February 21, 2020, as West Virginia State University Day.

Whereas, West Virginia State University is a premier regional research university that is recognized nationally for its quality education, innovative teaching and experiential learning; and

Whereas, The University was founded as the West Virginia Colored Institute by the West Virginia Legislature on March 17, 1891, as a public historically black college and university (HBCU) in Institute, West Virginia; and

Whereas, It was one of the original universities among the 1890 land-grant colleges and universities established by the second Morrill Act of 1890; and

Whereas, Along with academic programs, military education became an integral part of the curriculum, with the Legislature passing a bill to admit up to 60 cadets in 1899, graduating more than 900 second lieutenants and 15 generals throughout the University's history; and

Whereas, In 1927, the university was accredited by the North Central Association (Higher Learning Commission) making it the first of 17 original schools to be certified by a regional association, becoming the first public college in West Virginia to be accredited by the North Central Association Higher Learning Commission holding the longest continuous accreditation of any public college or university in West Virginia; and

Whereas, In 1929, the Institution became known as West Virginia State College and over the next decades, West Virginia State was recognized as one of the leading public institutions of higher education for African-Americans; and

Whereas, In 1954, the United States Supreme Court gave its historic decision outlawing school segregation and West Virginia State rapidly transitioned to an integrated institution garnering national attention for substantial enrollment increases after the removal of racial barriers; and

Whereas, In 2004, the West Virginia Legislature approved the transition to University status; and

Whereas, West Virginia State University now offers 72 academic program options leading to 23 baccalaureate and seven master's degrees and seven fully online programs; and

Whereas, As one of only two land-grant institutions in the state, West Virginia State University's Extension Service serves all 55 counties and approximately 20,000 people throughout the year, including through the statewide Healthy Grandfamilies program, which provides information and resources to grandparents raising their grandchildren; and

Whereas, As a regional research institution, West Virginia State University contributes significantly to state economic development efforts in the natural and social sciences, including agricultural, environmental, biomedical, and business and economics research endeavors, amassing over \$17 million in research revenues; and

Whereas, With every dollar the state invests in West Virginia State University, the University returns \$16 in economic activity, resulting in an estimated economic output of \$254 million per year; and

Whereas, Prominent alumni from West Virginia State University include scholars, celebrities, politicians, business people, athletes, leaders, who have distinguished themselves across the globe and changed the world, such as the Tuskegee Airmen;



NBA legend Earl Lloyd and Presidential Medal of Freedom recipient Katherine Johnson, who inspired the film, “Hidden Figures”; and

Whereas, West Virginia State University is a member of the NCAA Division II Mountain East Conference, fielding 11 men’s and women’s athletic teams the compete regularly for conference championships; and

Whereas, Since its founding 129 years ago, West Virginia State University has always proven to be a community of students, outstanding faculty and staff devoted to helping people excel and gain the education needed to launch successful careers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 21, 2020, as West Virginia State University Day; and, be it

*Further Resolved,* That the Senate hereby recognizes West Virginia State University for its tremendous contributions to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Dr. Anthony L. Jenkins, President of West Virginia State University.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Com. Sub. for Senate Concurrent Resolution 19,** USMC LCpl Fred Michael Kerns Memorial Bridge.

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

The question 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.

**Senate Concurrent Resolution 27**, Requesting study on ways to make State Capitol building more handicap accessible.

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

The question 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.

**Senate Resolution 47**, Recognizing Clay County High School “We the People” team for winning sixth consecutive WV state championship.

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

At the request of Senator Facemire, 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 the resolution, and on this question, Senator Blair demanded the yeas and nays.

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

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 47) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Facemire and Romano regarding the adoption of Senate Resolution 47 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:41 a.m., the Senate recessed to present Senate Resolution 47.

The Senate reconvened at 11:48 a.m.

At the request of Senator Romano, unanimous consent being granted, Senator Romano addressed the Senate regarding former Clay County High School student and Senate Parliamentarian Jake Nichols.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.

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 Committee Substitute for Senate Bill 291 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 291) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 502**, Relating to methamphetamine criminal penalty.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 502) passed with its title.

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

**Eng. Senate Bill 562**, Expunging certain criminal convictions.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 562) passed with its title.

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

**Eng. Senate Bill 610**, Removing resident manager requirement for Alcohol Beverage Control Administration.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 610) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo,

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 610) takes effect July 1, 2020.

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

**Eng. Com. Sub. for Senate Bill 692**, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 692) 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 ninth order of business.

**Com. Sub. for Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

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

**Com. Sub. for Senate Bill 253**, Providing for fair pay and maximized employment of disabled persons.

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

**Senate Bill 651**, Relating to definition of "mortgage loan originator".

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

**Com. Sub. for Senate Bill 660**, Regulating electric bicycles.

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

**Eng. House Bill 4149**, Relating to insurance.

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

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

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

#### **ARTICLE 4. GENERAL PROVISIONS.**

##### **§33-4-2. Application of chapter to particular types of insurers.**

(a) No provision of this chapter shall apply to:

(1) Hospital service corporations and medical service corporations except as stated in §33-24-1 *et seq.* of this code;

(2) Fraternal benefit societies except as stated in §33-23-1 *et seq.* of this code;

(3) Farmers' mutual fire insurance companies except as stated in §33-22-1 *et seq.* of this code;

(4) Warranties;

(5) Service contracts;

(6) Maintenance agreements.

(b) For the purposes of this article:

(1) "Holder" means a resident of this state who either purchases a service agreement or is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract.

(2) "Incidental costs" means expenses specified in a vehicle protection product warranty that are incurred by the warranty holder due to the failure of a vehicle protection product to perform as provided in the contract. Incidental costs may be reimbursed in either a fixed amount specified in the vehicle protection product warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder.

~~(2)~~ (3) "Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.

~~(3)~~ (4) "Provider" means a person who is obligated to a holder pursuant to the terms of a service contract to repair, replace, or perform maintenance on or to indemnify the holder for the costs of repairing, replacing, or performing maintenance on goods.

(5) "Road hazard" means a hazard that is encountered while driving a motor vehicle, which may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

~~(4)~~ (6) "Service contract" means an agreement entered into for a separately stated consideration and for a specified term under which a provider agrees to repair, replace, or maintain a product or



provide indemnification for the repair, replacement, or maintenance of a product for operational or structural failure caused by a defect in materials or workmanship or by normal wear. A service contract may additionally provide for incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service or for the repair or replacement of a product for damage resulting from power surges or accidental damage incurred in handling the product. “Service contract” includes a contract or agreement that provides for one or more of the following:

(A) The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(B) The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(C) The repair of chips or cracks in, or the replacement of, motor vehicle windshields as a result of damage caused by road hazards;

(D) The replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen;

(E) The repair of damage to the interior components of a motor vehicle caused by wear and tear;

(F) The cosmetic repair of minor damage such as scuffs, scratches, scrapes, or rash on exterior surfaces of a motor vehicle; or

(G) In conjunction with a motor vehicle leased for use, the repair, replacement, or maintenance of property, or indemnification for repair, replacement, or maintenance, due to excess wear and use, damage for items such as tires, paint cracks or chips, interior stains, rips or scratches, exterior dents or scratches, windshield cracks or chips, missing interior or exterior

parts, or excess mileage that result in a lease-end charge, or any other charge for damage that is deemed as excess wear and use by a lessor under a motor vehicle lease, provided any such payment does not exceed the purchase price of the vehicle.

(7) “Vehicle protection product” means a protective chemical, substance, device, or system that: (A) is installed on or applied to a motor vehicle; (B) is designed to prevent loss or damage to a motor vehicle from a specific cause; and (C) includes a vehicle protection product warranty. “Vehicle protection product” does not include fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system.

(8) “Vehicle protection product warranty” means a warranty that provides that if the vehicle protection product fails to prevent loss or damage to a motor vehicle from a specific cause, the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the vehicle protection product to perform pursuant to the terms of the vehicle protection product warranty.

~~(5)~~ (9) “Warranty” means in relation to a product or service an undertaking that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor costs, or other remedial measures, such as repair or replacement of the product or repetition of services, and that is made solely by the manufacturer, importer, or seller of the product or services made without payment of additional consideration, not negotiated or separated from the sale of the product or service and incidental to the sale of the product or service. “Warranty” includes a vehicle protection product warranty.

The bill (Eng. H. B. 4149), as amended, was then ordered to third reading.

**Eng. House Bill 4359**, Modifying the filing fees for insurers.

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

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

On page one, section thirty-four, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) As used in this section, “filing” means any form filing made pursuant to §33-6-8 of this code or any rule or rate filing made pursuant to this chapter.;

And,

On page one, section thirty-four, line eleven, after the word “refunded” by inserting a comma.

The bill (Eng. H. B. 4359), as amended, was then ordered to third reading.

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

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

**Eng. House Bill 4515**, Relating to wildlife resources, eligibility for license or permit application.

On second reading, coming up in regular order, was read a second time and 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 and joint resolution on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Com. Sub. for Senate Bill 284**, Creating WV Health Care Continuity Act.

**Com. Sub. for Senate Bill 484**, Requiring free feminine hygiene products be provided to female prisoners.

**Com. Sub. for Com. Sub. for Senate Bill 491**, Relating to Seed Certification Program.

**Com. Sub. for Senate Bill 528**, Creating Uniform Worker Classification Act.

**Com. Sub. for Senate Bill 578**, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

**Com. Sub. for Com. Sub. for Senate Bill 579**, Changing and adding fees to wireless enhanced 911 fee.

**Com. Sub. for Senate Bill 586**, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

**Com. Sub. for Senate Bill 649**, Permitting county emergency phone system directors negotiate contracts for mobile phones.

**Com. Sub. for Senate Bill 672**, Creating special registration plate recognizing Girl Scouts.

**Com. Sub. for Senate Bill 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act.

**Senate Bill 691**, Limiting programs adopted by State Board of Education.

**Com. Sub. for Senate Bill 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

**Com. Sub. for Senate Bill 707**, Relating to nursing career pathways.

**Com. Sub. for Senate Bill 722**, Relating to special license plates for public and private nonprofit transit providers.

**Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

**Senate Bill 727**, Relating to disbursement of funds for highway road repair.

**Com. Sub. for Senate Bill 728**, Exempting all property used for agricultural purposes from county property maintenance codes or ordinances.

**Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

**Com. Sub. for Senate Bill 751**, Removing certain requirements of municipality annexing property within urban growth boundary.

**Senate Bill 755**, Relating to High-Wage Growth Business Tax Credit Act.

**Com. Sub. for Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively exempt school.

**Com. Sub. for Senate Bill 770**, Revising requirements for post-doctoral training.

**Senate Bill 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

**Senate Bill 782**, Relating to fees assessed by Health Care Authority on certain hospitals.

**Com. Sub. for Senate Bill 787**, Providing benefits to pharmacists for rendered care.

**Senate Bill 789**, Repealing obsolete sections of WV Code relating to Legislature.

**Senate Bill 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

**Senate Bill 804**, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund.

**Senate Bill 806**, Supplemental appropriation out of federal funds in Treasury to DOT.

**Senate Bill 837**, Providing exemptions from ad valorem taxes for certain types of personal property.

**Senate Bill 838**, Directing State Police establish referral program for substance abuse treatment.

**Com. Sub. for Senate Joint Resolution 9**, Motor Vehicle and Other Personal Property Tax Reduction Amendment.

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

**Eng. House Bill 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

And,

**Eng. House Bill 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Woelfel, and Plymale.

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

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senator Tarr were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

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

**Com. Sub. for Senate Bill 246:** Senator Plymale;

**Senate Bill 752:** Senator Woelfel;

**Senate Bill 759:** Senator Woelfel;

**Senate Bill 762:** Senator Woelfel;

**Senate Bill 765:** Senator Woelfel;

**Senate Bill 792:** Senator Woelfel;

**Senate Bill 817:** Senator Smith;

**Senate Bill 822:** Senator Stollings;

**Senate Bill 823:** Senator Stollings;

**Senate Bill 824:** Senator Stollings;

**Senate Bill 827:** Senators Baldwin, Stollings, and Smith;

And,

**Senate Resolution 47:** Senators Lindsay, Baldwin, Jeffries, and Stollings.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:27 p.m., the Senate adjourned until tomorrow, Friday, February 21, 2020, at 11 a.m.

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## FRIDAY, FEBRUARY 21, 2020

The Senate met at 11:14 a.m.

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

Prayer was offered by Pastor Chad Cobb, River Ridge Church Teays Valley Campus in Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles S. Trump IV, a senator from the fifteenth district.

Pending the reading of the Journal of Thursday, February 20, 2020,

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

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

The Senate then proceeded to the third order of business.

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. Com. Sub. for Senate Bill 209**, Relating to annexation by minor boundary adjustment.

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

**Eng. Com. Sub. for House Bill 4015**—A Bill to amend and reenact §17-2E-3, §17-2E-5, §17-2E-6, §17-2E-8, and §17-2E-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §17-2E-6a and §17-2E-6b; to amend and reenact §31-15-8 of said code; to amend



and reenact §31G-1-3 and §31G-1-6 of said code; and to amend said code by adding thereto a new article, designated §31G-5-1, §31G-5-2, §31G-5-3 and §31G-5-4, all relating generally to economic development; providing a timetable for Division of Highways to approve or deny applications for right-of-way access; providing that telecommunications carriers may satisfy an obligation to provide the notice to other telecommunications carriers under this section by requesting the assistance and coordination of the Broadband Enhancement Council; providing the Broadband Enhancement Council is responsible for ensuring compliance with certain requirements; setting the fair market value for purposes of this article at \$0 in monetary compensation if the division is required by law to accept compensation for use of the division's right-of-way; providing the division may receive in-kind compensation; explaining what the division may consider when valuing in-kind compensation; delineating that in-kind compensation may be used only for state purposes; setting forth that where two or more providers share the obligation of compensating the division they shall do so on a fair, reasonable and equitable basis; providing that subject to the provisions of the Vertical Real Estate Management and Availability, the division may enter into an agreement and issue a permit to allow any carrier to use excess telecommunications facilities owned or controlled by the division; providing that with gubernatorial approval, the division may transfer or assign the rights related to a telecommunications facilities owned or controlled by the division to any other state agency; allowing the commissioner to establish a policy to provide for installation of conduit on bridges; changing language relating to the commissioner's rule-making authority; permitting the existing insurance fund to insure additional broadband internet service; giving the Governor authority to name the chair of the Broadband Enhancement Council; providing that executive agencies shall cooperate with and provide all necessary information to the council to determine the feasibility and federal allowability of creating Advanced Regulatory Environment Analysis (AREA) maps; enacting the Vertical Real Estate Management and Availability Act; requiring the Department of Administration to coordinate with the Governor to seek proposals to manage state-owned vertical real estate; establishing how the

vertical real estate is to be managed; defining “vertical real estate” as any structure that is suitable for the mounting of communications equipment and associated ground facilities; providing for a distribution of funds from leasing state-owned vertical real estate; and, setting forth certain exceptions to the availability for management of state-owned vertical real estate.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 4026**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

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

**Eng. House Bill 4039**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to providing limitations on nuisance actions against fire department and emergency medical services fixed sirens under certain circumstances.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4422**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-60-1, §16-60-2, and §16-60-3, all relating to prohibiting patient brokering; defining terms; prohibiting causing or participating in acts that are intended to derive any benefit or profit from referral of a patient to a healthcare provider or health care facility; prohibiting patient brokering related to a recovery residence; establishing criminal penalties for persons and

business entities engaged in unlawful patient brokering; providing exceptions; and defining terms.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

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

**Eng. House Bill 4514**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §20-2-5j; and to amend and reenact §20-2-16 of said code, all relating to hunting; permitting the use of leashed dogs to track mortally wounded deer or bear; and setting forth how dogs caught chasing deer are to be handled.

Referred to the Committee on Natural Resources.

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

**Eng. House Bill 4529**—A Bill to amend and reenact §7-25-22 of the Code of West Virginia, 1931, as amended, relating to the collection of assessments and the priority of liens on property within a resort area district.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 4589**—A Bill to amend and reenact §29-1-3 of the Code of West Virginia, 1931, as amended, relating to causing a study and recommendations by the Commission on the Arts on the construction and design of a memorial to honor West Virginians killed in the United States War on Terror.

Referred to the Committee on Military.

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

**Eng. Com. Sub. for House Bill 4593**—A Bill to amend and reenact §3-1-5 and §3-1-30 of the Code of West Virginia, 1931, as amended, all relating to authorizing the assignment of poll workers to serve more than one precinct when those precinct polling places are located in the same building or facility.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4594**—A Bill to amend and reenact §3-1-28 of the Code of West Virginia, 1931, as amended, relating to allowing election officials to be appointed to work in precincts outside their county of residence; and prohibiting candidates for certain offices from serving as election officials for 18 months prior or subsequent to an election.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 4697**—A Bill to amend and reenact §60-1-5b of the Code of West Virginia, 1931, as amended, relating to the definition of “mini-distillery” and sourcing of raw agricultural products used therein.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4747**—A Bill to amend and reenact §29-19-2, §29-19-5, §29-19-6, and §29-19-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §39-4A-2 of said code; and to amend and reenact §47-2-1 and §47-2-3, all relating generally to extending current laws allowing electronic submission of applications and forms to the Secretary of State’s Office relating to licensure or regulation charities, nonprofit organizations, out-of-state commissioners, and trademarks; providing new definitions for the term “sign” and “signature” relating to applications or forms in the foregoing regulated industries; providing for more efficient application processes in the foregoing regulated industries; and technical typographical changes to distinguish the Secretary of State from an entity’s secretary or administrative assistant.

Referred to the Committee on Government Organization.

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

**Eng. House Bill 4749**—A Bill to amend and reenact §30-18-3, §30-18-6, §30-18-9, and §30-18-10 of the Code of West Virginia, 1931, as amended, all relating to providing more efficient application processes for private investigators, security guards, and firms; removing unnecessary requirements for each private investigator and security guard applicant to submit fingerprints and photographs of each applicant to the Secretary of State; to allow private investigators, security guards, and private investigator or security guard firms to obtain liability insurance in lieu of a surety bond; increasing the amount of a surety bond; increasing the licensure renewal term of a private investigator, security guard, and private investigator or security guard firms from one to two years; and making technical typographical changes to distinguish the Secretary of State from an entity’s secretary or administrative assistant.

Referred to the Committee on Government Organization.

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

**Eng. House Bill 4777**—A Bill to amend and reenact §30-6-22A of the Code of West Virginia, 1931, as amended, relating to the right of disposition of remains.

Referred to the Committee on Health and Human Resources.

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

**Eng. House Bill 4864**—A Bill to amend and reenact §4-10-7 and §4-10-9 of the Code of West Virginia, 1931, as amended, all relating to performance reviews of state agencies and regulatory boards; authorizing the Joint Committee on Government Operations and the Joint Standing Committee on Government Organizations to include analysis of the rules of agencies and regulatory boards and to make recommendations to the Legislative Rule-Making Review Committee.

Referred to the Committee on Government Organization.

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

**Eng. House Bill 4865**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-25, relating to requiring certain boards that seek to increase a fee or seek to impose a new fee to also submit cost saving measures undertaken or proposed to be undertaken.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

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

**Eng. House Bill 4956**—A Bill to amend and reenact §37-4-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto five new sections, designated §37-4-9, §37-4-10, §37-4-11, §37-4-12, and §37-4-13, all relating generally to the partition of real property; providing for allotment or sale of real property and procedures therefore; providing for appointment, duties, and requirements for commissioners for partitions; providing certain relevant factors to be considered in determining whether partition in kind is appropriate; providing for rebuttable presumptions regarding property valuation and partition in kind of severed minerals; providing procedures for courts to follow in determining the fair market value of real property being partitioned; providing for appointment, duties, and requirements for appraisers for partitions; providing for open-market sales, sealed bids, or public auctions of real property being partitioned and procedures and exceptions therefore; providing for appointment, duties, and requirements for real estate brokers for partitions; providing reporting requirements and report contents for open-market sales; providing for a reserve price in open market sales; providing protections from sale for certain specified real property interests.

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

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 21st day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(H. B. 4030)**, Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans.

Respectfully submitted,

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 106**, Making daylight saving time official time year round in WV.

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

**Com. Sub. for Senate Bill 106** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to making daylight saving time the official time in West Virginia year round.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, 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 Trump, from the Committee on the Judiciary, submitted the following report, which was received:



Your Committee on the Judiciary has had under consideration

**Senate Bill 123**, Relating generally to pyramid promotional schemes.

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

**Com. Sub. for Senate Bill 123** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §47-15-1 and §47-15-2 of the Code of West Virginia, 1931, as amended, all relating to pyramid promotional schemes; defining terms; prohibiting pyramid promotional schemes; allowing certain plans or operations which do not cause inventory loading and implement a bona fide inventory repurchase program; specifying requirements for recruiting literature, sales manuals, and contracts; providing that a bona fide inventory repurchase program is not required to apply to certain inventory; requiring certain disclosures; and providing criminal penalties.

And,

**Senate Bill 752**, Relating generally to medical cannabis.

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

**Com. Sub. for Senate Bill 752** (originating in the Committee on the Judiciary)—A Bill to repeal §16A-4-2 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to repeal §16A-13-1 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-5 of said code; to amend and reenact §16A-4-3 and §16A-4-5 of said code; to amend and reenact §16A-5-1 of said code; to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend said code by adding thereto a new section, designated §16A-6-14; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-2 of said code; to amend and reenact §16A-12-2, §16A-12-7, and §16A-12-8 of said code; to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, and §16A-13-8 of said code;

to amend and reenact §16A-14-1, §16A-14-2, and §16A-14-3 of said code; and to amend and reenact §16A-15-2 and §16A-15-4 of said code, all relating to medical cannabis generally; defining terms; authorizing the Commissioner of the Bureau for Public Health to approve additions to the forms of lawful medical cannabis which may be used and the conditions for which medical cannabis use is authorized pursuant to recommendations of the Medical Cannabis Advisory Board; adding certain qualifying medical conditions; removing requirement for training course for physicians; requiring an eight-hour training course for principals and employees; providing unlawful use of medical cannabis is subject to the criminal code; removing restriction on dispensing dry leaf or plant form medical cannabis to a patient by a caregiver; clarifying public officials and family members who cannot own or operate medical cannabis organizations; requiring employees of medical cannabis organizations to be registered and establishing a registration fee; authorizing the commissioner to enter into reciprocity agreements with other jurisdictions for terminally ill cancer patients; authorizing the commissioner to promulgate rules relating to 30-day supplies of medical cannabis; lowering fee for replacement patient identification card; modifying criminal background check requirement for 5 percent ownership or less in privately held business entity and for publicly held entities; modifying permit fee for each medical cannabis organization location; removing the residency requirement for medical cannabis organization owners, operators, shareholders, partners, and members; adding certain convictions which preclude participation as or in a medical cannabis organization; clarifying that the Tax Division of the Department of Revenue is charged with monitoring medical cannabis pricing; removing requirement that the bureau must obtain approval of local boards of health for medical cannabis organizations; modifying and clarifying the distance a medical cannabis dispensary must be from certain educational facilities; modifying and clarifying entities engaged in medical cannabis research subject to nondisclosure provisions; removing requirement that certain federal agencies must preapprove medical cannabis research projects; authorizing accredited colleges, universities, and medical schools to be eligible to engage in approved medical cannabis research; clarifying that the governing

body of an academic clinical research center must approve the institution's participation in a medical cannabis research project; requiring report of research sent to the bureau be made public within 180 days; increasing the number of clinical registrants; clarifying that only those public officials directly involved in the administrations of the medical cannabis program are prohibited from having a monetary interest in a medical cannabis organization; and adding accredited educational institutions engaged in research to the list of persons, entities, and organizations exempt from licensure, discipline for lawful use, possession, or manufacture of medical cannabis.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 193**, Establishing deadlines for spending units to submit certain procurements.

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

**Com. Sub. for Senate Bill 193** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-3-10 of the Code of West Virginia, 1931, as amended, relating to establishing deadlines for spending units to submit procurements to the Purchasing Division when a continuing procurement for goods and services exceeds \$1 million.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 259**, Requiring mandatory incarceration prior to parole for certain persons convicted of distributing controlled substances near libraries.

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

**Com. Sub. for Senate Bill 259** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60A-4-406 of the Code of West Virginia, 1931, as amended, relating to applying a mandatory period of incarceration prior to parole eligibility to persons 18 years old or over who are convicted of distributing a controlled substance within 200 feet of a public library; and establishing penalties.

And,

**Senate Bill 700**, Exempting physicians from specified traffic laws when responding to emergencies.

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

**Com. Sub. for Senate Bill 700** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-2-10, relating to permitting allopathic and osteopathic physicians to be exempt from specified traffic laws in emergency situations when responding to an emergency call and displaying emblem; providing that physicians must still exercise due care for safety; and providing for rulemaking.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 269**, Establishing advisory council on rare diseases.

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

Respectfully submitted,

Mark R. Maynard,  
*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

**Com. Sub. for Senate Bill 312** (originating in the Select Committee on Children and Families), Relating to provisional licensure of social workers.

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

**Com. Sub. for Com. Sub. for Senate Bill 312** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-30-16 and §30-30-18 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-30-30, all relating to provisional licensure requirements for social workers; creating licensure exception for Bureau for Children and Families service workers; permitting emergency rulemaking; creating registration process for service workers employed by the Bureau for Children and Families; providing deadline for conversion of license to registry; and setting forth registration eligibility criteria and continuing education requirements.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bills 329, 330, 331, 332, 333, 334, 335, 336, 337, and 338**, DEP rule relating to ambient air quality standards.

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

**Com. Sub. for Senate Bill 329** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-3-1 *et seq.* of

the Code of West Virginia, 1931, as amended, relating generally to authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of ozone season nitrogen oxides emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to West Virginia surface mining reclamation rule; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to groundwater protection rules for coal mining operations; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management system; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to voluntary remediation and redevelopment rule; and authorizing the Oil and Gas Conservation Commission to promulgate a legislative rule relating to rules of the commission.

And,

**Senate Bill 356**, Fire Commission rule relating to State Building Code.

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

**Com. Sub. for Senate Bill 356** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-6-2 of the

Code of West Virginia, 1931, as amended, relating to authorizing the Fire Commission to promulgate a legislative rule relating to State Building Code as modified by the Legislative Rule-Making Review Committee and amended by the Legislature.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 355**, Fire Commission rule relating to State Fire Code.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 472**, Providing alternative sentencing program for work release.

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

**Com. Sub. for Senate Bill 472** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-11A-1a of the



Code of West Virginia, 1931, as amended, relating to inmate work generally; including persons convicted in municipal court of ordinance violations as eligible to participate in alternative work programs; specifying supervisory authority for municipally sentenced inmates; authorizing approved and sentenced inmates in the custody of the Commissioner of Corrections to work for municipal, county, and state agencies; providing for sentenced persons in jails and state correctional facilities to perform tasks such as cleaning streams, parks, streets, and highways for municipal and county governments and state agencies; and requiring the commissioner to approve the tasks.

**Senate Bill 513**, Protecting consumers against businesses using automatic renewals without consent.

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

**Com. Sub. for Senate Bill 513** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6O-1, §46A-6O-2, §46A-6O-3, §46A-6O-4, §46A-6O-5, and §46A-6O-6, all relating to automatic purchase renewal offers and continuous service offers; stating legislative intent; defining terms; setting notice and disclosure requirements for automatic purchase renewal offers and continuous service offers; providing that a business may not charge the consumer for an automatic renewal or continuous services without first obtaining the consumer's affirmative consent; providing acknowledgement requirements; providing that a business shall disclose how to cancel the automatic renewal or continuous service before the consumer pays if the offer includes a free gift or trial; providing that a business shall provide certain mechanisms for cancellation of the automatic renewal or continuous offer in the acknowledgement; requiring a business to provide contact information to the consumer; providing means for terminating the automatic renewal or continuous service offer online; providing notice requirements in the case of material changes in the terms of the automatic renewal or continuous service; providing that a business shall provide to the consumer a reminder of the recurring

charge and information on how the consumer may cancel at least 30 days prior to the charge in the case of automatic renewal or continuous service offers of certain frequency; providing a period of application; providing that goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer when the business sends any goods, wares, merchandise, or products to a consumer without first obtaining the consumer's affirmative consent under a continuous service agreement or automatic renewal of a purchase; providing a civil cause of action; providing statutory penalties; providing that no action may be brought until written notice is provided by the consumer, or his or her representative, to the business; providing written notice requirements; providing mailing requirements; providing the business an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for the business to remit payment, if any, as specified in the accepted cure offer; providing that a claim may be brought for failure of the business to timely effect the accepted cure offer; providing that the written notice is a jurisdictional prerequisite to bringing a cause of action; prohibiting certification of certain class action litigation; providing the court discretion to award plaintiff costs of the action, including reasonable attorney's fees; providing that plaintiff is not entitled to costs and attorney's fees under certain circumstances; providing a statute of limitations; providing that the statute of limitations shall be tolled; and stating exemptions.

And,

**Senate Bill 785**, Establishing uniform electioneering prohibition area.

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

**Com. Sub. for Senate Bill 785** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to prohibiting electioneering within 100 feet from the outside entrance of community voting locations during early voting periods.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 489**, Moving provisions of licensing contractors to chapter 30 of code.

And,

**Senate Bill 758**, Relating to authority of Emergency Medical Services Advisory Council.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 569**, Expiring funds from various accounts to DHHR, Medical Services Program Fund.

**Senate Bill 805**, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund.

And,

**Senate Bill 812**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 570**, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund.

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

**Com. Sub. for Senate Bill 570** (originating in the Committee on Finance)—A Bill expiring funds to the balance of the Department of Health and Human Resources – Division of Human Services – Medical Services Program Fund, fund 5084, organization 0511, in the amount of \$36,202,960, from the State Excess Lottery Revenue Fund – Division of Human Services, fund 5365, fiscal year 2020, organization 0511, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill.

And,

**Senate Bill 633**, Creating Medicaid Families First Reserve Fund account.

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

**Com. Sub. for Senate Bill 633** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as

amended, by adding thereto a new section, designated §9-5-28, relating generally to creating in the State Treasury a special account known as Medicaid Families First Reserve Fund; specifying moneys that may be deposited in fund; providing for expenditures from fund; and authorizing investments.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 648** (originating in the Committee on Health and Human Resources), Providing dental coverage for adult Medicaid recipients.

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

**Com. Sub. for Com. Sub. for Senate Bill 648** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to providing dental coverage for adult Medicaid recipients; providing limitations; defining terms; designating the Department of Health and Human Resources as the responsible department to implement these provisions; providing effective date; providing for the Department of Health and Human Resources to seek authority for the Centers for Medicare and Medicaid Services to implement the program; and making the provisions of the section effective only upon approval by Centers for Medicare and Medicaid Services of specified provider taxes.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 680**, Qualifying not-for-profit private baccalaureate institutions for Advanced Career Education programs and WV Invests Grant Program.

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,

Patricia Puertas Rucker,  
*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 Education.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 710**, Establishing pilot program to evaluate telemedicine health services.

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

**Com. Sub. for Senate Bill 710** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact

§30-3-13a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §30-3-13b; to amend and reenact §30-14-12d of said code; and to amend said code by adding thereto a new section, designated §30-14-12e, all relating to practice of telemedicine; establishing a pilot program for members of the Public Employees Insurance Agency; setting a sunset date for pilot program; providing for use of audio-only engagement in certain circumstances; and providing for an independent audit.

**Senate Bill 749**, Requiring Fatality and Mortality Review Team share data with CDC.

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

**Com. Sub. for Senate Bill 749** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §61-12A-2 and §61-12A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-12A-5, all relating to requiring the Bureau for Public Health to submit its maternal mortality data to the Centers for Disease Control and Prevention for data aggregation; permitting peer review report to be made to birth hospital; requiring Infant and Mortality Review Panel to annually analyze factors impacting maternal and infant mortality and prepare report; and requiring the Bureau for Public Health to perform multi-year analysis to recommend system change to reduce maternal and infant deaths.

**Senate Bill 797**, Authorizing governing boards of public and private hospitals employ hospital police officers.

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

**Com. Sub. for Senate Bill 797** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-19; to amend and reenact §17C-1-6 of said

code; and to amend and reenact §30-29-1, §30-29-5, and §30-29-8 of said code, all relating generally to the authorization by governing boards of public and private hospitals to appoint and employ hospital police officers; providing for the qualifications, training, authority, compensation, and removal of hospital police officers; providing for the assistance of local law-enforcement agencies upon request; and providing limitations on liability of hospital police officers.

And,

**Senate Bill 820**, Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities.

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

**Com. Sub. for Senate Bill 820** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-2A-2, relating to authorizing the Department of Health and Human Resources to transfer comprehensive community mental health centers and comprehensive intellectual disability facilities to regional mental health centers or regional intellectual disability facilities.

With the recommendation that the four committee substitutes do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration



**Senate Bill 711**, Relating to juvenile jurisdiction of circuit courts.

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

**Com. Sub. for Senate Bill 711** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-4-726, relating to directing the Secretaries of the Department of Health and Human Resources, the Department of Military Affairs and Public Safety, and requesting that the Juvenile Justice Commission of the Supreme Court of Appeals to collaborate and undertake an investigation of numerous issues related to juvenile justice, juvenile competency, and procedures for dealing with juveniles found incompetent to assist counsel in proceedings against them; and are determined to be nonrestorable; requiring certain recommendations and proposed legislation; and requiring the report and proposed legislation be supplied to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.

And,

**Senate Bill 821**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

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

**Com. Sub. for Senate Bill 821** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, and §55-7K-3, all relating to providing immunity from civil liability to facilities and employees providing drug and alcohol detoxification services, substance use disorder services, drug overdose services on a short-term basis, or crisis stabilization services related to drug and alcohol detoxification services, substance use disorder services, drug overdose services on a short-term basis; establishing an effective date of July 1, 2020, for newly

amended sections; and detailing the relationship of this article with §55-7B-1.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub for Senate Bill 729**, Relating to awards and disability under Deputy Sheriff Retirement Act.

And,

**Com. Sub. for Senate Bill 738**, Creating Flatwater Trail Commission.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 750**, Establishing extended learning opportunities.

And,

**Senate Bill 775**, Requiring two water bottle filling stations be included in newly built or renovated schools.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 798**, Requiring dairy foods processed in state be added to list of items to be purchased by state-funded institutions.

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

**Com. Sub. for Senate Bill 798** (originating in the Committee on Finance)—A Bill to amend and reenact §19-37-2 of the Code of West Virginia, 1931, as amended, relating to adding pasteurized milk and other dairy foods produced or processed in West Virginia to the list of items required to be purchased by all state-funded institutions, such as schools, colleges, correctional facilities, governmental agencies, and state parks.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 802**, Relating to public utilities generally.

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

**Com. Sub. for Senate Bill 802** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-20, relating generally to the regulation of public utilities; providing legislative findings; providing that certain large volume end users may receive natural gas service without the permission, consent, control, review, or input of the West Virginia Public Service Commission; providing that the end user shall make certain certifications to the commission; providing that the commission shall receive, file, and retain all end user certifications; providing that no person, entity, or body shall be a public utility, intrastate pipeline, common carrier, or otherwise subject to the jurisdiction of the commission as a result of supplying such end users; and providing that provisions shall not prevent or impede the commission's safety regulation of pipelines.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

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

**Senate Bill 810**, Implementing federal Affordable Clean Energy rule.

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,

Randy E. Smith,  
*Chair.*

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 830**, Eliminating special merit-based employment system for health care professionals.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

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

**Senate Bill 840** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-6A-7a, relating to modifications of well work permits issued by the Department of Environmental Protection's Office of Oil and Gas.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 841** (originating in the Committee on Finance)—A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended, relating to requiring the Governor to fix the salaries of certain state-appointed officers after the office is vacated or after July 1, 2020, whichever occurs first; providing for an effective date; and requiring the salary be included in appointment letter.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 842** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in two county school districts for the duration of five years; setting forth criteria to be used in the selection of the two county school districts; allowing the two county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene a committee consisting of certain school

personnel and the education organizations to establish qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report to the Legislative Oversight Commission on Education Accountability.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Smith and Sybolt offered the following resolution:

**Senate Concurrent Resolution 43**—Requesting the Division of Highways name bridge number 16-048/00-008.59 (16A143), locally known as US 220 Overpass Bridge, carrying US 48 over US 220 in Hardy County, the “U.S. Army 1LT Fred Omar Pratt Memorial Bridge”.

Whereas, Fred Omar Pratt was born on August 17, 1941, the son of Edwin M. Pratt, Sr., and Vern Hose Pratt of Moorefield of Hardy County; and

Whereas, On October 13, 1958, Fred Omar Pratt enlisted in the U.S. Army and served tours of duty in Japan, Korea, and Vietnam, and was a distinguished graduate of the Airborne School and served as a Ranger in the 101st Airborne Division in Vietnam during 1962. That same year, 1LT Fred Omar Pratt volunteered for Special Forces and returned to the United States for further training. After winning the Green Beret, he was appointed to attend Officers’ Candidate School in Fort Benning, Georgia. There, he was elected to the honored position of Council of President of the Battalion and was named distinguished graduate of his class; and

Whereas, First Lieutenant Fred Omar Pratt attended the U.S. Army's Rotary Wing Flight School and returned to Vietnam in June 1968. He served as a C Model Gun Ship Pilot in the 155th Assault Helicopter Company. On August 23, 1968, 1LT Fred Omar Pratt distinguished himself by exceptionally valorous actions while serving as pilot of a UH-1 Huey helicopter gunship supporting friendly Special Forces and MACV compounds in the vicinity of Duc Lop, South Vietnam, that were under attack by an enemy regiment. During the battle, 1LT Fred Omar Pratt observed a tree line in which large enemy forces had concentrated and began to attack the enemy force; and

Whereas, In the course of combat on August 23, 1968, 1LT Fred Omar Pratt's aircraft sustained numerous hits from anti-aircraft fire and was downed. Under heavy mortar and automatic weapons fire and being injured in the arm and back himself, 1LT Fred Omar Pratt tended to his seriously injured crew chief and exposed himself to enemy fire to summon aid for his crew. Upon reaching a secure area, 1LT Fred Omar Pratt continued to give aid to his injured crew chief while refusing treatment for himself; and

Whereas, On August 26, 1968, 1LT Fred Omar Pratt insisted on returning to battle in light of dire circumstances and aggressive actions by NVA forces whereby the enemy had captured half the camp. Upon arrival in the area of aggression, 1LT Fred Omar Pratt took actions against a large enemy force drawing heavy fire. During this engagement, he was fatally wounded. His co-pilot returned the heavily damaged gunship to the 155th AHC at Ban Me Thuot; and

Whereas, For his gallant and courageous efforts, 1LT Fred Omar Pratt was awarded the Silver Star for gallantry in action (Posthumous), the Distinguished Flying Cross for heroism (Posthumous), the Air Medal with Seven Oak Leaf Clusters, the Purple Heart (twice), the National Defense Service medal, the Vietnam Service Medal, and the Republic of Vietnam Campaign Medal, two of the highest awards for bravery awarded by the Vietnamese government; and



Whereas, In June of 1974, the U.S. Army dedicated the Flight Simulator Building, Building 4901, at the U.S. Army Aviation School at Fort Rucker, Alabama as “Pratt Hall” in his honor. This building houses the most sophisticated flight simulator systems used to train Army Aviators; and

Whereas, First Lieutenant Fred Omar Pratt left behind a loving wife, three young sons, as well as his beloved brothers and sisters and many other family members and friends. Those who served with him were proud to do so, and one comrade stated that: “we wish for him a peaceful eternal rest and those who remember and mourn his sacrifice are mindful of his duty and service in fighting for and protecting the freedoms that we enjoy today”; and

Whereas, Many in the Moorefield, West Virginia community today still remember the young man who went off to serve his country and did not return; and

Whereas, It is fitting that an enduring memorial be established to commemorate 1LT Fred Omar Pratt and his contributions and sacrifice 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 16-048/00-008.59 (16A143), locally known as US 220 Overpass Bridge, carrying US 48 over US 220 in Hardy County, the “U.S. Army 1LT Fred Omar Pratt Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested have made and be placed signs identifying the bridge as the “U.S. Army 1LT Fred Omar Pratt 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.

Which, under the rules, lies over one day.

Senators Woelfel and Plymale offered the following resolution:

**Senate Concurrent Resolution 44**—Requesting the Division of Highways name a portion of Buffalo Creek Road, CR7, along the 2.59 miles between WV75 and Rice Branch Road CR14/1 in Wayne County, the “In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free”.

Whereas, Mary Ola “Tootsie” Hensley lived on Buffalo Creek since the early 1960s, where she and her husband raised four children; and

Whereas, Tootsie was a faithful member of the Buffalo Missionary Baptist Church where she was a faithful Sunday school teacher, AWANA leader, vacation bible school teacher, helper at the annual church camp, and Treasurer of the Women’s Missionary Society; and

Whereas, Tootsie worked with the Wayne County Special Olympics at their field day for nearly 20 years; and

Whereas, Tootsie singlehandedly worked to keep Buffalo Creek litter free where she could be seen on any given day walking the roadside picking up litter from Rocky Tops Pizza to the Buffalo Valley Missionary Baptist Church, a 2.59-mile stretch; and

Whereas, Tootsie died unexpectedly on May 22, 2019, and is deeply missed by members of her church and community; and

Whereas, It is fitting that an enduring memorial be established to commemorate Tootsie Hensley and her contributions to her church and community; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of Buffalo Creek Road, CR7, between WV 75 and Rice Branch Road CR14/1, in Wayne County, “In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying

the portion of road as “In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free”; and, be it

*Further Resolved*, That the Clerk of the Senate is requested to forward a copy of this resolution to the Commissioner of the Division of Highways, and, be it

*Further Resolved*, That six small plaques be made and given at a dedication ceremony to each family member and to the Buffalo Valley Missionary Baptist Church.

Which, under the rules, lies over one day.

Senators Romano, Beach, Baldwin, Hardesty, Jeffries, Lindsay, and Woelfel offered the following resolution:

**Senate Concurrent Resolution 45**—Requesting the Joint Committee on Government and Finance study the benefits of creating a West Virginia State Bank to facilitate access to capital for returning veterans, low income entrepreneurs and for underserved communities, to promote access to capital for developing sustainable agricultural and community investment projects and to study the best practices and management structures necessary to create a successful State Bank.

Whereas, Having access to financial services and capital is necessary to make investments across this state from developing farming opportunities to community reinvestment and a State Bank can play a vital role in providing access to capital by partnering with financial institutions to stimulate and facilitate investment in this state; and

Whereas, Cities and municipalities across this state are wrestling with blighted and dilapidated buildings and citizens in these communities have limited resources to address these problems without access to financial services and capital to invest and improve our communities; and

Whereas, West Virginia had a food import, export deficit of approximately \$6 billion in 2018, where as a state we imported more than \$7 billion in agricultural consumer products and produce

in state less than \$1 billion for export in agricultural consumer products annually; and

Whereas, A State Bank investing in state residents and promoting in state agriculture has the potential to create jobs and provide for developing a wide range of local agricultural projects, products and farming opportunities; and

Whereas, A West Virginia State Bank with its mission to provide access to capital, for resident small businesses and entrepreneurial minded individuals, greater access to capital by partnering with local banks, increasing local lending through measures such as guaranteeing larger loans and backing smaller, riskier loans that benefit this state and our citizens; and

Whereas, West Virginia should strive to learn from the highly successful Bank of North Dakota and create a prudent state bank management structure that is insulated from political influence with an advisory board that consists of finance experts and executives who are experienced bankers to promote state bank operations and lending decisions that are made by professionals for the explicit purpose of making investments in this state for the benefit of our citizens; and

Whereas, Small businesses represent the largest block of employers in this state and loans for small business are consistently about half of the national average and without access to capital, businesses cannot begin to operate, and small business startups don't start up, entrepreneurship gets curtailed, and growth is hindered; Therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the benefits of creating a West Virginia State Bank to facilitate access to capital for returning veterans, low income entrepreneurs and for underserved communities, to promote access to capital for developing sustainable agricultural and community investment projects and to study the best practices and management structures necessary to create a successful State Bank; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance contract with the Department of Public Administration at West Virginia University, at a cost of up to \$50,000, to prepare a report regarding implementing a State Bank of West Virginia, including possible funding mechanisms, the structure of the Bank Board of Directors, and by identifying the target lending clients and entrepreneurial purposes that benefit and support the people of this state and to report to the Legislature on or before December 31, 2020 on their findings, conclusions, and recommendations, together with any drafts of legislation necessary to effectuate any recommendations; and, be it

*Further Resolved*, That the State Treasurer, the West Virginia Division of Financial Institutions, the West Virginia Development Office and the Division of Financial Institutions shall cooperate with the Legislature and provide information requested for this study; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature 2021 on its findings, conclusions, and recommendations, together with any drafts of legislation necessary to effectuate any recommendations; and, be it

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

Which, under the rules, lies over one day.

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

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

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 46** (originating in the Committee on the Judiciary)—Requesting the Department of

Environmental Protection and the Department of Health and Human Resources cooperatively propose and initiate a public source-water supply study plan to sample perfluoroalkyl and polyfluoroalkyl substances for all community water systems in West Virginia, including schools and daycares that operate treatment systems regulated by the West Virginia Department of Health and Human Resources.

Whereas, The Legislature recognizes the prevalence and potential health risks of certain perfluoroalkyl and polyfluoroalkyl substances (PFAS). These compounds have been manufactured and are used in thousands of applications in a variety of industries and are an ingredient in some fire-fighting foams, food packaging, cleaning products, nonstick pots and pans, and various other household items. These compounds are very stable and accumulate in the environment, and many are highly water soluble, easily transferring through soil to groundwater. Some are associated with adverse health effects; and

Whereas, The United States Environmental Protection Agency's lifetime drinking water health advisory level for the individual or the combined concentrations of two of the most studied of the PFAS compounds, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water is currently 70 parts per trillion; and

Whereas, The United States Environmental Protection Agency is moving forward with the Maximum Contaminant Level process for PFOA and PFOS two of the most well-known and prevalent PFAS chemicals. The United States Environmental Protection Agency is also gathering and evaluating information to determine if regulation is appropriate for a broader class of PFAS; and

Whereas, In accordance with §7321 of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92), the United States Environmental Protection Agency added 160 per-and polyfluoroalkyl substances (PFAS) to the Emergency Planning and Community Right-to-Know Act's §313 list of reportable chemicals. Since January 1, 2020, Industry reporters have been required to track and collect data on the listed PFAS with the first

Toxics Release Inventory (TRI) report due by July 1, 2021. Federal law requires industry to report this information to: (1) The State Emergency Response Commission, which in West Virginia is the West Virginia Division of Homeland Security and Emergency Management; (2) the Local Emergency Planning Committee; and (3) the fire department with jurisdiction over the affected facility; and

Whereas, It is in the public interest for West Virginia to identify the presence and prevalence of specific PFAS chemicals in and near drinking water supplies to protect the health of West Virginians; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Department of Environmental Protection and the Department of Health and Human Resources cooperatively propose and initiate a public source-water supply study plan to sample perfluoroalkyl and polyfluoroalkyl substances for all community water systems in West Virginia, including schools and daycares that operate treatment systems regulated by the West Virginia Department of Health and Human Resources; and, be it

*Further Resolved,* That the purpose of the PFAS public source-water supply study plan is to inform state regulatory agencies about the distribution of PFAS contamination and potential PFAS contamination in public drinking water sources using data of known quality. Specific objectives of the PFAS public source-water supply study plan shall include: (1) Identifying the drinking water supplies in West Virginia that have measurable amounts of PFOS, PFOA, and related PFAS compounds in their raw source-water; (2) Determining if there are geochemical, watershed, industrial use, land use, or geohydrologic factors or processes that affect the presence of these compounds in public source-water supplies; (3) Informing state agencies and the public of any need for additional PFAS investigation, such as sampling of domestic wells; and (4) Assisting state regulatory agencies in protecting public health by providing risk-based information on statewide PFAS distribution in source water; and, be it

*Further Resolved*, That any entity required to report PFAS compounds based on the TRI reporting requirements listed above shall also report that information to the Department of Environmental Protection by July 1, 2021.

*Further Resolved*, That the Department of Environmental Protection and the Department of Health and Human Resources report to the Joint Legislative Oversight Committee on State Water Resources semi-annually beginning in the fiscal year 2021, on its findings, conclusions, and recommendations.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 17**, USMC PFC Manuel P. Markos Memorial Bridge.

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

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

On page two, in the Resolved clause, by striking out the words “35-43-0.10 (35A054), locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County” and inserting in lieu thereof the words “35-002/00-011.58 (35A147), locally known as Short Creek Bridge, carrying WV 2 over Short Creek in Ohio County”;

And,

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



**Senate Concurrent Resolution 17**—Requesting the Division of Highways name bridge number 35-002/00-011.58 (35A147), locally known as Short Creek Bridge, carrying WV 2 over Short Creek in Ohio County, the “U.S.M.C. PFC Manuel P. Markos Memorial Bridge”.

The question now being on the adoption of the resolution (S. C. R. 17), as amended, 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.

**Senate Concurrent Resolution 42**, US Army CPL Richard “Warren” Ellison Memorial Bridge.

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

**Senate Resolution 48**, Recognizing 125th Anniversary of Bluefield State College.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Swope and Maynard regarding the adoption of Senate Resolution 48 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:42 a.m., the Senate recessed to present Senate Resolution 48.

The Senate reconvened at 11:46 a.m. and resumed business under the seventh order.

**Senate Resolution 49**, Designating February 21, 2020, as WV State University Day.

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

At the request of Senator Jeffries, 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 the resolution, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 49) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Jeffries and Lindsay regarding the adoption of Senate Resolution 49 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:53 a.m., the Senate recessed to present Senate Resolution 49.

The Senate reconvened at 12:00 p.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

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

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

The nays were: None.

Absent: Maroney—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 S. B. 130) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 253**, Providing for fair pay and maximized employment of disabled persons.

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

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

The nays were: None.

Absent: Maroney—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 S. B. 253) passed with its title.

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

**Eng. Senate Bill 651**, Relating to definition of “mortgage loan originator”.

On third 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. Com. Sub. for Senate Bill 660**, Regulating electric bicycles.

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

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

The nays were: Ihlenfeld—1.

Absent: Maroney—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 S. B. 660) passed with its title.

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

**Eng. House Bill 4149**, Relating to insurance.

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

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

Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Romano—1.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4149) passed.

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

**Eng. House Bill 4149**—A Bill to amend and reenact §33-4-2 of the Code of West Virginia, 1931, as amended, relating to insurance; clarifying when insurance code chapter provisions are not applicable; adding definitions; and clarifying “service contract” and “warranty” definitions.

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

**Eng. House Bill 4359**, Modifying the filing fees for insurers.

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

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

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4359) passed.

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

**Eng. House Bill 4359**—A Bill to amend and reenact §33-6-34 of the Code of West Virginia, 1931, as amended, relating to modifying the filing fees for insurers; permitting multiple insurers to make a single filing with a fee collected from each insurer; defining “filing”; and deleting language.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: Maroney—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4359) takes effect July 1, 2020.

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

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

On third 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 4515**, Relating to wildlife resources, eligibility for license or permit application.

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 House Bill 4515 pass?”

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

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4515) passed with its title.

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

On motion of Senator Takubo, at 12:20 p.m., the Senate recessed.

The Senate reconvened at 12:28 p.m. and proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 284**, Creating WV Health Care Continuity Act.

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

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

**Com. Sub. for Senate Bill 484**, Requiring free feminine hygiene products be provided to female prisoners.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Committee Substitute for Senate Bill 484 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—2.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 484) passed with its title.

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

**Com. Sub. for Com. Sub. for Senate Bill 491**, Relating to Seed Certification Program.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 491 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 491) passed with its title.

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

**Com. Sub. for Senate Bill 528,** Creating Uniform Worker Classification Act.

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

**Com. Sub. for Senate Bill 578,** Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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

**Com. Sub. for Com. Sub. for Senate Bill 579,** Changing and adding fees to wireless enhanced 911 fee.

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

**Com. Sub. for Senate Bill 586,** Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

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

**Com. Sub. for Senate Bill 649,** Permitting county emergency phone system directors negotiate contracts for mobile phones.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Committee Substitute for Senate Bill 649 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 649) passed with its title.

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

**Com. Sub. for Senate Bill 672**, Creating special registration plate recognizing Girl Scouts.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Committee Substitute for Senate Bill 672 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 672) passed with its title.

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

**Com. Sub. for Senate Bill 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act.

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

**Senate Bill 691**, Limiting programs adopted by State Board of Education.

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

**Com. Sub. for Senate Bill 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

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

**Com. Sub. for Senate Bill 707**, Relating to nursing career pathways.

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

**Com. Sub. for Senate Bill 722**, Relating to special license plates for public and private nonprofit transit providers.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Committee Substitute for Senate Bill 722 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty,

Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 722) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: Boley and Maroney—2.

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. 722) takes effect July 1, 2020.

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

**Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

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

**Senate Bill 727**, Relating to disbursement of funds for highway road repair.

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

**Com. Sub. for Senate Bill 728**, Exempting all property used for agricultural purposes from county property maintenance codes or ordinances.

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

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

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

## **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

### **§7-1-3n. Authority of certain counties as to building and housing codes; state building code.**

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt building and housing codes establishing and regulating minimum building and housing standards for the purpose of improving the health, safety, and well-being of its citizens. Such codes may be adopted either for the entire county, or for any portion or portions of such county which may constitute an effective area or areas for such purposes, without the necessity of adopting such codes for any other portion of such county. Notwithstanding any other provision of this subsection to the contrary, no such code shall apply to or affect any territory within the boundaries of any municipal corporation which has adopted and in effect a housing and building code, unless and until such municipal corporation so provides by ordinance, or to structures on parcels of land used primarily for agricultural purposes. If a county adopts a property maintenance code or ordinance, including, but not limited to, the ICC International Property Maintenance Code, such code or ordinance shall exempt all property used for

agricultural purposes. Any such code heretofore adopted by any county will be and is unenforceable as to agricultural property.

(b) Notwithstanding the provisions of subsection (a) of this section, all existing county building codes are void one year after the promulgation of a state building code by the State Fire Commission as provided in §29-3-5b of this code.

Upon the voidance of the county's existing building code, if the county commission votes to adopt a building code, it must be the state building code promulgated pursuant to §29-3-5b of this code.

(c) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt such state building code upon promulgation by the State Fire Commission. However, such state building code shall not apply to or affect any territory within the boundaries of any municipal corporation which has not adopted the state building code.

The bill (Com. Sub. for S. B. 728), as amended, was then ordered to engrossment and third reading.

**Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

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

**Com. Sub. for Senate Bill 751**, Removing certain requirements of municipality annexing property within urban growth boundary.

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

**Senate Bill 755**, Relating to High-Wage Growth Business Tax Credit Act.



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

**Com. Sub. for Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively exempt school.

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

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

**Com. Sub. for Senate Bill 770**, Revising requirements for post-doctoral training.

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

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

On page three, section four, line twenty-one, after the word “college” by inserting the word “and”;

On page three, section four, line twenty-three, after the word “training” by changing the colon to a period and striking out the word “and”;

And,

On page three, section four, line twenty-four, by striking out all of subdivision (4).

The bill (Com. Sub. for S. B. 770), as amended, was then ordered to engrossment and third reading.

**Senate Bill 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Senate Bill 781 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 781) passed with its title.

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

**Senate Bill 782**, Relating to fees assessed by Health Care Authority on certain hospitals.

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

**Com. Sub. for Senate Bill 787**, Providing benefits to pharmacists for rendered care.

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

**Senate Bill 789**, Repealing obsolete sections of WV Code relating to Legislature.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Senate Bill 789 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Maroney, and Romano—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 789) passed with its title.

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

**Senate Bill 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

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

**Senate Bill 804**, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Senate Bill 804 was then read a third time and put upon its passage.

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

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Maroney—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. 804) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 804) takes effect from passage.

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

**Senate Bill 806**, Supplemental appropriation out of federal funds in Treasury to DOT.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Boley and Maroney—2.

Engrossed Senate Bill 806 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Boley and Maroney—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. 806) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Boley and Maroney—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 806) takes effect from passage.

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

**Senate Bill 837**, Providing exemptions from ad valorem taxes for certain types of personal property.

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

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

On page sixteen, section four-b, line twenty-four, by striking out the words “\$1.00 per milliliter or fraction thereof” and inserting in lieu thereof the words “50 percent of the wholesale price of each article or item”.

The bill (S. B. 837), as amended, was then ordered to engrossment and third reading.

**Senate Bill 838**, Directing State Police establish referral program for substance abuse treatment.

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

**Com. Sub. for Senate Joint Resolution 9**, Motor Vehicle and Other Personal Property Tax Reduction Amendment.

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

On motions of Senators Romano, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Unger, and Woelfel, the following amendments to the resolution were reported by the Clerk and considered simultaneously:

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

**§1d. Legislative Authority Related to Ad Valorem Taxation and Assessment of Tangible Motor Vehicle Personal Property.**

Notwithstanding any other provision of this Constitution, the Legislature may, by general law exempt motor vehicles from *ad valorem* property taxation or reduce the rate of taxation or assessment on motor vehicles.;

And,

On page two, by striking out lines twelve through twenty and inserting in lieu thereof the following:

*Resolved further*, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered “Amendment No. 1” and designated as the “Motor Vehicle Personal Property Tax Reduction or Elimination Amendment” and the purpose of the proposed amendment is summarized as follows: “The purpose of this amendment is to permit the Legislature to eliminate or lower the ad valorem personal property tax on motor vehicles.”

Following discussion,

The question being on the adoption of the amendments offered by Senators Romano, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Unger, and Woelfel to the resolution (Com. Sub. for S. J. R. 9), and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Cline, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.



The nays were: Azinger, Blair, Clements, Hamilton, Mann, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

Absent: Boley and Maroney—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Romano, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Unger, and Woelfel to the resolution rejected.

The resolution (Com. Sub. for S. J. R. 9) was then ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

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

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

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

**ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

**§17A-10-3a. Special registration and use of antique motor vehicles and motorcycles;—definition, registration, and definitions; use of classic motor vehicles and classic motorcycles; customized antique plates; exemption for display of registration plate.**

(a) The annual registration fee for any antique motor vehicle or motorcycle as defined in this section is \$2. As used in this section:

“Antique motor vehicle” means any motor vehicle which is more than 25 years old and is owned solely as a collector’s item.

“Antique military vehicle” means an antique motor vehicle, regardless of the vehicle’s size or weight, that was manufactured for use in any country’s military forces, and that is maintained to represent its military design and markings accurately, including a trailer meeting the same requirements, but not including a vehicle or trailer currently in service.

“Antique motorcycle” means any motorcycle which is more than 25 years old and is owned solely as a collector’s item.

“Classic motor vehicle” means a motor vehicle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

“Classic motorcycle” means a motorcycle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

(b) Except as otherwise provided in this section, antique motor vehicles or motorcycles may not be used for general transportation but may only be used for:

(1) Participation in club activities, exhibits, tours, parades, and similar events;

(2) The purpose of testing their operation, obtaining repairs or maintenance, and transportation to and from events as described in §17A-10-3a(b)(1) of this code; and

(3) Recreational purposes over weekends, beginning on Friday at 12:00 p. m., and ending on the following Monday at 12:00 p. m., and on holidays: *Provided*, That a classic motor vehicle or a classic motorcycle as defined in this section may be registered under the applicable class at the applicable registration fee set forth in §17A-10-3 of this code and may be used for general transportation.

(c) A West Virginia motor vehicle or motorcycle displaying license plates of the same year of issue as the model year of the antique motor vehicle or motorcycle, as authorized in this section, may be used for general transportation purposes if the following conditions are met:

(1) The license plate's physical condition has been inspected and approved by the Division of Motor Vehicles;

(2) The license plate is registered to the specific motor vehicle or motorcycle by the Division of Motor Vehicles;

(3) The owner of the motor vehicle or motorcycle annually registers the motor vehicle or motorcycle and pays an annual registration fee for the motor vehicle or motorcycle equal to that charged to obtain regular state license plates;

(4) The motor vehicle or motorcycle passes an annual safety inspection; and

(5) The motor vehicle or motorcycle displays a sticker attached to the license plate, issued by the division, indicating that the motor vehicle or motorcycle may be used for general transportation.

(d) If more than one request is made for license plates having the same number, the division shall accept only the first application.

(e) The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary or convenient for the carrying out of the provisions of this section.

(f) Upon appropriate application, together with a special annual fee of \$40, which is in addition to all other fees required by this chapter, there shall be issued to the owner of an antique motor vehicle a special registration plate for an antique motor vehicle titled in the name of the qualified applicant, bearing a combination of letters or numbers requested by that applicant, subject to the approval by the commissioner, and with the maximum number of letters or numbers to be determined by the commissioner.

(g) Upon proper application pursuant to §17A-10-3a(f) of this code, the commissioner shall approve an alternative registration insignia for an antique military vehicle that is compatible with the vehicle's original markings, including, but not limited to, the display of the vehicle's unique military identification number not

to exceed eight characters on the bumper of the vehicle: *Provided*, That nothing in this section exempts the operator of an antique military vehicle from the requirements set forth in §17A-3-13 of this code. Pursuant to this subsection, an antique military vehicle is exempt from the requirement to display a registration plate if the exemption is necessary to maintain the vehicle's accurate military marking.

The bill (Eng. Com. Sub. for H. B. 2338), as amended, was then ordered to third reading.

**Eng. House Bill 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

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

**Eng. House Bill 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

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

**Com. Sub. for Com. Sub. for Senate Bill 38**, Requiring schools provide elective course on Hebrew Scriptures or Bible.

**Com. Sub. for Senate Bill 213**, Relating to administration of trusts.

**Com. Sub. for Senate Bill 246**, Including family court judges in retirement system for judges.

**Com. Sub. for Senate Bill 514**, Creating WV FinTech Regulatory Sandbox Act.

**Com. Sub. for Senate Bill 530**, Relating to taxation of aircraft.

**Com. Sub. for Senate Bill 614**, Changing method of allocating funding from Safe School Funds.

**Com. Sub. for Senate Bill 635**, Allowing administration of small estates.

**Com. Sub. for Senate Bill 668**, Enacting Uniform Trust Decanting Act.

**Com. Sub. for Senate Bill 739**, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities.

**Com. Sub. for Senate Bill 772**, Clarifying American Law Institute's Restatements of Law.

**Com. Sub. for Senate Bill 793**, Relating to B&O taxes imposed on certain coal-fired electric generating units.

**Senate Bill 800**, Authorizing electric utilities construct and operate project within electric utility distribution system.

**Senate Bill 816**, Updating North American Industry Classification System code references.

**Com. Sub. for Senate Bill 819**, Relating to DOH management of Coal Resource Transportation roads.

**Senate Bill 828**, Clarifying municipal B&O taxation where business activity occurs.

**Senate Bill 831**, Clarifying Economic Development Authority board enter into contracts necessary to carry out duties.

**Senate Bill 839**, Creating State Advisory Council on Postsecondary Attainment Goals.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

And,

**Eng. House Bill 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

**Senate Bill 835**: Senator Tarr.

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

**Com. Sub. for Senate Bill 472**: Senator Cline;

**Senate Bill 681**: Senators Maroney and Rucker;

**Senate Bill 762**: Senator Rucker;

**Com. Sub. for Senate Bill 819**: Senator Plymale;

**Com. Sub. for Senate Bill 820**: Senator Stollings;

**Senate Concurrent Resolution 42**: Senators Lindsay and Stollings;

**Senate Resolution 48**: Senators Lindsay, Stollings, Jeffries, Rucker, Cline, and Baldwin;

And,

**Senate Resolution 49**: Senators Stollings, Rucker, Cline, and Baldwin.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 1:15 p.m., the Senate adjourned until Monday, February 24, 2020, at 11 a.m.

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## MONDAY, FEBRUARY 24, 2020

The Senate met at 11:12 a.m.

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

Prayer was offered by Pastor Paul Coon, Hernshaw United Methodist Church, Hernshaw, West Virginia, and Coal Fork United Methodist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Patricia Puertas Rucker, a senator from the sixteenth district.

Pending the reading of the Journal of Friday, February 21, 2020,

At the request of Senator Palumbo, 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 Baldwin, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Katherine Johnson, a West Virginia native and Presidential Medal of Freedom recipient.

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

The Senate proceeded to the third order of business.

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

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. Com. Sub. for Senate Bill 623**, Allowing noncitizen of US be eligible for teaching certificate.

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

**Eng. Com. Sub. for House Bill 2321**—A Bill to amend and reenact §23-4-1f of the Code of West Virginia, 1931, as amended, all relating to allowing workers' compensation benefits for first responders diagnosed with post-traumatic stress disorder resulting from an event that occurred during their employment; providing for diagnosis; noting that treatment can be conducted by other licensed mental health professionals once the initial diagnosis has been made by a psychiatrist; providing that continuing benefits are contingent upon continued treatment; and, requiring the Joint Committee on Volunteer Fire Departments and Emergency Medical Services to study the implementation of this provision and report to the Legislature with modifications or additions to this section.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 3098**—A Bill to amend and reenact §11-16-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-4-2 of said code, all relating to permitting the issuance of multiple licenses manufacturing alcoholic liquors and nonintoxicating beer; and requiring full payment of all fees.

Referred to the Committee on the Judiciary.



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

**Eng. Com. Sub. for House Bill 4001**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-6E-1, §12-6E-2, §12-6E-3, §12-6E-4, §12-6E-5, §12-6E-6, §12-6E-7, §12-6E-8, §12-6E-9, §12-6E-10 and §12-6E-11, all relating to creating West Virginia Impact Fund, Investment Committee and Mountaineer Impact Office to invest funds in certain projects with the goal of furthering economic development, infrastructure development and job creation in the State of West Virginia, generally; providing definitions; creating West Virginia Impact Fund; providing for the transfer of funds to Investment Committee and the purposes for the expenditure of the funds; providing for availability of funds for appropriation of the Legislature; providing purpose and goal and investment standards; providing limitations on investments; creating Investment Committee and providing for its membership, appointments; terms; removals; vacancies and quorums; providing for powers and duties of Investment Committee; requiring disclosures of interest; establishing standard of care; creating Mountaineer Impact Office and providing for powers, duties, staffing, management and processes for proposing and administering investments in projects approved by Investment Committee; providing for audits and reports; providing opportunity for consultation with West Virginia Investment Management Board; providing for immunities and exemptions; prohibiting political activities; and providing for confidentiality of information.

Referred to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 4155**—A Bill to amend and reenact §21-14-2 and §21-14-3 of the Code of West Virginia, 1931, as amended, all relating generally to the regulation of plumbers; exempting individuals who perform plumbing work under \$5,000

from being a licensed plumber; requiring the Commissioner of Labor to credit military related experience towards hours requirements; exempting employees of a small business; defining terms; requiring drug testing of licensees; and reducing the number of hours of plumbing work experience.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

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

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Foster, Steele, and N. Brown.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2020, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4363**—A Bill to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-10D-1 of said code; to amend and reenact §7-14D-5 of said code; to amend and reenact §8-22A-6 of said code; to amend and reenact §16-5V-6 of said code; and to amend said code by adding thereto a new article, designated §20-18-1, §20-18-2, §20-18-3, §20-18-4, §20-18-5, §20-18-6, §20-18-7, §20-18-8, §20-18-9, §20-18-10, §20-18-11, §20-18-12, §20-18-13, §20-18-14, §20-18-15, §20-18-16, §20-18-17, §20-18-18, §20-18-19, §20-18-20, §20-18-21, §20-18-22, §20-18-23, §20-18-24, §20-18-25, §20-18-26, §20-18-27, §20-18-28, §20-18-29, §20-18-30, §20-18-31, §20-18-32, §20-18-33, §20-18-34, §20-18-35 and §20-18-36, all relating to establishing the West Virginia Division of Natural Resources Police Officer Retirement System; providing for additional members of the Consolidated Public Retirement Board;

and providing for criminal offense of defrauding the system and penalties therefor.

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

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

**Eng. Com. Sub. for House Bill 4408**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring the State Board of Education to develop and implement an online database for the employment of school principals, other administrators and central office personnel.

Referred to the Committee on Education.

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

**Eng. Com. Sub. for House Bill 4452**—A Bill to amend and reenact §11A-3-18, §11A-3-22, §11A-3-52, and §11A-3-55 of the Code of West Virginia, 1931, as amended, all relating generally to notice requirements on tax collections conducted by the State Auditor.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 4474**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3a, §17A-6F-3b, §17A-6F-3c, §17A-6F-3d, §17A-6F-3e, §17A-6F-3f, §17A-6F-3g, §17A-6F-4, §17A-6F-5, §17A-6F-6, §17A-6F-7, §17A-6F-8, §17A-6F-9, and §17A-6F-10, all relating to peer-to-peer car

sharing programs; defining the scope of this article and providing for other definitions; imposing insurance requirements; providing for certain exclusions from motor vehicle insurance policies; requiring peer-to-peer car sharing programs to obtain a limited lines insurance license for automobile rental coverage; establishing certain consumer protection and record-keeping requirements; establishing requirements for data collection and retention; establishing benchmarks for safety for automobiles used in peer-to-peer car sharing programs; providing for the collection of sales and use tax by a peer-to-peer car sharing program; establishing the authority to regulate peer-to-peer car sharing programs at airports; establishing controlled authority and other requirements for peer-to-peer car sharing programs in this state; and providing for an effective date.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4522**—A Bill to amend and reenact §17B-2-8 of the Code of West Virginia, 1931, as amended, relating to the Federal Real ID Act and allowing division to accept documents compliant with Real ID Act for proof of identity, residency, and lawful presence.

Referred to the Committee on Transportation and Infrastructure.

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

**Eng. House Bill 4523**—A Bill to amend and reenact §20-2-42y of the Code of West Virginia, 1931, as amended, relating to Class AH, AHJ, AAH, AAHJ apprentice hunting and trapping licenses; and removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

Referred to the Committee on Natural Resources.

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

**Eng. Com. Sub. for House Bill 4557**—A Bill to amend and reenact §27-9-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §27-17-3 of said code, all relating to behavioral health centers and group residential facilities; to include the ability to impose civil money penalties against such centers and facilities for good cause; to update obsolete terminology; and requiring legislative rule making.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 4634**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-1B-1, §5B-1B-2, §5B-1B-3 and §5B-1B-4, all relating to establishing the Southern West Virginia Lake Development Study Commission; providing legislative findings; establishing the commission and designating its membership; defining components of commission study; authorizing the commission to create committees and utilize university and other state government resources; providing for expense reimbursement for certain commission members; and requiring reports to the Legislature.

Referred to the Committee on Natural Resources.

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

**Eng. Com. Sub. for House Bill 4645**—A Bill to amend and reenact §4-2-1 and §4-2-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §4-2-6a; and to amend and reenact §4-3-3c of said code, all relating to the establishment of the Office of Regulatory and

Fiscal Affairs under the Joint Committee on Government and Finance; clarifying the duties of the Legislative Auditor; creating the Office of Regulatory and Fiscal Affairs as an advisory body to the Legislature; establishing processes for the conduct of fiscal notes and economic impact analysis; requiring state agencies to provide information to the Office of Regulatory and Fiscal Affairs upon request; authorizing certain members of the Legislature to request an economic impact analysis of the rules of the state; permitting the Chairs of the Joint Committee on Government and Finance to request certain performance reviews and analysis of existing statutes; and clarifying the organization of joint legislative agencies.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

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

**Eng. House Bill 4737**—A Bill to amend and reenact §18C-1-1 of the Code of West Virginia, 1931, as amended, relating to the qualifications for state financial aid.

Referred to the Committee on Education.

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

**House Concurrent Resolution 102**—Requiring the development of funding formulas for West Virginia's public institutions of higher education, both baccalaureate institutions and community and technical colleges, by the start of the Regular Session of the 2021 Legislature.

Referred to the Committee on Education.

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 24th day of February, 2020, 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. 2086)**, Uniform Real Property Electronic Recording Act.

**(Com. Sub. for H. B. 2497)**, Relating to the whistle-blower law.

And,

**(Com. Sub. for H. B. 4058)**, Relating to pharmacy benefit managers.

Respectfully submitted,

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

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 28**, Allowing WV Board of Medicine investigators to carry concealed weapons.

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

**Com. Sub. for Senate Bill 28** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-19, relating to permitting West Virginia Board of Medicine

investigators to carry a concealed weapon; establishing procedures and criteria for allowing investigators to carry a concealed weapon; and limiting liability for good faith acts or omissions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 28) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 66**, Requiring State Police to follow towing services policies of county of location.

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

**Com. Sub. for Senate Bill 66** (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24A-2-2b of said code, all relating to emergency towing services; requiring county commissions to create districts whereby towing services within a district may be dispatched or implement a policy whereby all available towing services within an area currently served by an organization are dispatched on a rotating basis; defining a term; and eliminating sunset and legislative review provisions.



With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 66) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 119**, Creating online voters' guide.

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

**Com. Sub. for Senate Bill 119** (originating in the Committee on Government Organization)—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to creating an online voters' guide; requiring all information in the certificate of announcement; and permitting candidates running for legislative or statewide office to submit a personal statement.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 119) contained in the preceding report from the Committee on Government Organization 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 Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 160** (originating in the Committee on Natural Resources), Creating Voluntary WVU Rifle Team Check-Off Program on hunting and fishing licenses.

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

**Com. Sub. for Com. Sub. for Senate Bill 160** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-33c, relating to West Virginia University Rifle Team electronic application donation program; including solicitation for voluntary donation to West Virginia University Rifle Team on application for hunting or fishing electronic license; providing opportunity to designate donation in any amount; creating special account; establishing funding sources; specifying terms for expenditures; authorizing disbursements and administrative fee; and requiring annual reports.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 160) contained

in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 732**, Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 732) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 278**, Providing various methods to deal with defendant who becomes incompetent during trial.

And,

**Senate Bill 765**, Modifying “Habitual Offender” status.

And reports the same back without recommendation as to passage; but with the recommendation that they both be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (S. B. 278 and 765) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Trump, unanimous consent being granted, the bills were rereferred to the Committee on the Judiciary.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Eng. Com. Sub. for Senate Bill 511**, Regulating pawnbrokers.

Now on third reading, having been referred to the Committee on Rules on February 4, 2020;

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

Respectfully submitted,

Mitch Carmichael,  
*Chair ex officio.*

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 521** (originating in the Committee on Economic Development), Relating to job creation and economic incentives.

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

**Com. Sub. for Com. Sub. for Senate Bill 521** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-9A-1, §5-9A-2, §5-9A-3, and §5-9A-4, all relating to job creation and economic incentives; requiring Secretary of Commerce to review all tax and economic incentives; establishing guidelines for review of incentives; requiring annual report; providing confidentiality provisions; and defining terms.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 521) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 616** (originating in the Committee on Government Organization), Relating to employment grievance procedure for public employees.

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

**Com. Sub. for Com. Sub. for Senate Bill 616** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6C-2-3 and §6C-2-6 of the Code of West Virginia, 1931, as

amended, all relating generally to the employment grievance procedure for public employees; limiting the number of grievances in which an employee representative may participate per year; clarifying the amount of time an employee may spend during work hours for grievance preparation; providing that employees and employee representatives may not use state vehicles to travel to and from grievance proceedings or grievance preparation activities; and eliminating provisions authorizing a grievant to recover court costs and attorney's fees for certain grievance proceedings.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 616) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 653**, Increasing number of magistrates in Putnam County.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 653) contained in the

preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

**Senate Bill 661**, Replacing minimum minutes of instructional time required per day.

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

**Com. Sub. for Senate Bill 661** (originating in the Committee on Education)—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to replacing minimum minutes of instructional time required per day with a requirement for an average of five hours per day throughout the instructional term; and requiring county boards of education to provide public notice of public hearings for discussing the school calendar by publishing prominently on the board's website in addition to publishing in a local newspaper of general circulation in the area.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 661) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 687**, Increasing compensation of elected county officials.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 687) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 690**, Relating to overland recreation.

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

**Com. Sub. for Senate Bill 690** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated 17A-13-1, relating to the operation of street-legal special purpose vehicles; permitting the operation of street-legal special purpose vehicles on highways; providing for registration of street-legal special purpose vehicles; establishing licensing and equipment requirements for street-legal special purpose vehicles; defining terms; and requiring rulemaking.



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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

At the request of Senator Takubo, and by unanimous consent, the bill (Com. Sub. for S. B. 690) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 745**, Creating exemption to state sales and use tax for rental and leasing of equipment.

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

**Com. Sub. for Senate Bill 745** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to the creation of an exemption to the State Sales and Use Tax for the rental of equipment among corporations with a minimum of 50 percent common ownership.

And,

**Senate Bill 829**, Establishing Overland Recreation Fund.

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

**Com. Sub. for Senate Bill 829** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2I-9, relating to establishing the Overland Recreation Fund as a special fund; specifying the purposes for which the fund may be used; and defining terms.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Com. Sub. for S. B. 745 and 829) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 762**, Creating Preserving Patient Stability Act of 2020.

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

**Com. Sub. for Senate Bill 762** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7g; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated §33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r;

and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to creating the Preserving Patient Stability Act of 2020; setting forth definitions; prohibiting nonmedical switching of biological products; recognizing exemptions; providing effective date; and providing for enforcement.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 762) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 832**, Permitting retailers assume sales or use tax assessed on tangible personal property.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 832) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

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

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 843**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, Energy Assistance, fund 8755, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 844**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2020, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 845**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

Senator Beach offered the following resolution:

**Senate Concurrent Resolution 47**—Requesting the Joint Committee on Government and Finance study the effectiveness of current West Virginia State laws relating to maintaining private roads.

Whereas, Roads are important, not only for access to homes, but also to provide access in an emergency; and

Whereas, Private roads have become increasingly common across the country and the state in the last 20 years, in developments large and small, in rural, suburban, and urban areas; and

Whereas, Municipalities have resisted taking on the financial burden of new roads, which most often are not built to local department of transportation standards, particularly in areas where growth has fueled residential building booms; and

Whereas, Residents prefer a private road because it connotes exclusivity or, at least, provides a certain amount of seclusion. Sometimes the reasons are simply aesthetic; and

Whereas, In most cases, private homeowners have an easement or legal right-of-way that allows for the establishment of a shared private road. The scope of an easement defines who has access to the road and who is responsible for maintaining it; and

Whereas, In some cases, homeowners who share an easement have entered into a shared road maintenance agreement—the most common means for stipulating the details of the means for maintaining the road; and

Whereas, However, in many other cases there is no agreement for the care and maintenance of a shared easement, no homeowner's association, and no details to guide the owners who are responsible for the road; and

Whereas, It is often difficult, not surprisingly, to get a group of homeowners to agree how a road should be maintained when there is no guiding, legally binding document to dictate the terms; and

Whereas, Currently, state law does not provide a framework for homeowners who do not have a homeowner's association or road maintenance agreement to understand their rights and obligation to maintain the private road; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the effectiveness of current West Virginia State laws relating to maintaining private roads; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senator Baldwin offered the following resolution:

**Senate Concurrent Resolution 48**—Requesting the Division of Highways name bridge number 13-060/29-000.01 (13A271), locally known as Reese Bridge, carrying CR 60/29 over Meadow River in Greenbrier County, the “U.S. Army PFC Ronald Lee Berry Memorial Bridge”.

Whereas, Ronald Lee Berry was born on March 26, 1950, in Rainelle, Greenbrier County. He was drafted into the U.S. Army, beginning his tour of duty during the Vietnam War. He held the rank of Private First Class and was a Combat Engineer, serving with the 1st Infantry Division, 1st Engineer Battalion; and

Whereas, PFC Ronald Lee Berry died on August 10, 1969, as a result of nonhostile action in South Vietnam, Binh Duong Province. He is honored on the Vietnam Veteran's Memorial in Washington, D.C., with his name inscribed at VVM Wall, Panel 20w, Line 121; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Ronald Lee Berry and his contributions and sacrifice for 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 13-060/29-000.01 (13A271), locally known as Reese Bridge, carrying CR 60/29 over Meadow River in Greenbrier County, the "U.S. Army PFC Ronald Lee Berry 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 PFC Ronald Lee Berry 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.

Which, under the rules, lies over one day.

Senators Prezioso and Beach offered the following resolution:

**Senate Resolution 50**—Designating February 25, 2020, as Fairmont State University Day at the Legislature.

Whereas, The State of West Virginia is committed to supporting higher education; and

Whereas, West Virginia's colleges and universities open the doors of opportunity for West Virginia's students; and

Whereas, Fairmont State University helps West Virginians achieve their education and career goals, and meets the workforce needs of the State of West Virginia; and

Whereas, Fairmont State University contributes significantly to the state and local economies of West Virginia; and

Whereas, Fairmont State University's student body is comprised of nearly 90 percent of native West Virginians and over 60 percent first-generation students; and

Whereas, Fairmont State University educates students from every county in West Virginia; and

Whereas, Through the commitment of outstanding students, faculty, staff, administration, and leadership, Fairmont State University fulfills student-centered missions which benefit the entire state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 25, 2020 as Fairmont State University Day at the Legislature; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to Fairmont State University for its contributions to the state of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to President of Fairmont State University, Dr. Mirta M. Martin.

Which, under the rules, lies over one day.

Senators Romano and Facemire offered the following resolution:

**Senate Resolution 51**—Recognizing the Shinnston Fire Department on its 90th anniversary.

Whereas, The Shinnston Fire Department, known locally as Ten House, was chartered on June 9, 1930; and



Whereas, The Shinnston Fire Department has always served its community with a dedicated group of volunteers, equally dedicated family members, and overwhelming community support; and

Whereas, These multiple generations of volunteers have served the firefighting demands of the City of Shinnston, and the entirety of Harrison County, whenever and wherever needed, during local and mutual-aid fires for nine decades from its first Fire Chief, Harry Carter, to Joe McIntire, to Bob Harrison, to David J. Harmer, who served for 33-years, to Bob Burnett, to Jim Spadafore, to Doug Gregory, and to current Fire Chief, Dylan Oliveto; and

Whereas, The Shinnston Fire Department's history includes heroic rescue and recovery efforts after the 1944 tornado, which killed over 100 people and injured more than 400, and destroyed multiple structures, during which its firefighters joined the Red Cross and military personnel to care for the injured and search for the lost; and

Whereas, The Shinnston Fire Department orchestrated a large-scale donation collection and distribution center in 2016 to assist flood victims in southern West Virginia, collecting more than \$2 million in cash, foodstuffs, tents, and supplies comprising more than two dozen tractor trailer loads; and

Whereas, The Shinnston Fire Department continues its life-saving efforts by helping needy families get smoke detectors and by speaking to school children and families about developing an "escape plan" so they can safely get out of their homes during a fire; and

Whereas, The number of emergency calls responded to by the Shinnston Fire Department has surged from approximately 35 each year during the early years of the department to approximately 900 calls each year at the present time; and

Whereas, The Shinnston Fire Department was one of the pioneering departments that launched a central dispatch system and mutual aid agreements between all fire departments to handle the increased and complex demand for fire and emergency services in

Harrison County creating efficiency, avoiding the duplication of services, and preserving resources; and

Whereas, Shinnston firefighters often must work full-time jobs in addition to their duties at to the fire station where they selflessly and heroically volunteer to cover the demanding 24/7 rotation of all firefighters, so the Shinnston Fire Department stands ready to respond to every call; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Shinnston Fire Department on its 90th anniversary; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the Shinnston Fire Department for its heroic contribution to preserve life and property; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Shinnston Fire Department Chief, Dylan Oliveto.

Which, under the rules, lies over one day.

Senator Beach moved that the Senate Committee on the Workforce be discharged from further consideration of

**Senate Bill 62**, Creating Katherine Johnson Fair Pay Act of 2020.

Following discussion,

Senator Trump moved the previous question.

The question being on the adoption of Senator Trump's motion for the previous question, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

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

Absent: Mann—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Trump's motion for the previous question had prevailed.

The question now being on the adoption of Senator Beach's motion that the Committee on the Workforce be discharged from further consideration of Senate Bill 62, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Romano, Stollings, Unger, and Woelfel—12.

The nays were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Maroney, Maynard, Pitsenbarger, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

Absent: Mann—1.

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

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 846** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-5B-16 of the Code of West Virginia, 1931, as amended, relating to requiring a

hospital to publish notification prior to facility closure regarding patient medical records, including films; requiring publication to take place upon closure; requiring publication to take place upon change in location of patient medical records; providing time frame to respond to patient request for medical records; providing penalty; and providing effective date.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 846) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 847** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60A-2-204 and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to updating the controlled substance lists in Schedules I and V.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 847) contained in the preceding report from

the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 848** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-16-5 of the Code of West Virginia, 1931, as amended, relating to providing that persons charged with certain offenses related to driving under the influence of alcohol or drugs are not eligible to participate in the Military Service Members Court.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 848) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 43**, US Army 1LT Fred Omar Pratt Memorial Bridge.

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

**Senate Concurrent Resolution 44**, Naming portion of road in Wayne County “In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free”.

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

**Senate Concurrent Resolution 45**, Requesting study of benefits of creating WV State Bank to facilitate access to capital for returning veterans.

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

**Senate Concurrent Resolution 46**, Requesting DEP and DHHR propose public source-water supply study plan.

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

The question 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.

**Eng. Com. Sub. for Senate Bill 528**, Creating Uniform Worker Classification Act.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 528 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: Mann—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 S. B. 528) passed.

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

**Eng. Com. Sub. for Senate Bill 528**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4, §21-5I-5, §21-5I-6, and §21-5I-7, all relating to the Uniform Worker Classification Act; and clarifying definition of “independent contractor”.

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

**Eng. Com. Sub. for Senate Bill 578**, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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 Senate Bill 578 pass?”

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

The nays were: None.

Absent: Mann—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 S. B. 578) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: Mann—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 S. B. 578) takes effect July 1, 2020.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 579**, Changing and adding fees to wireless enhanced 911 fee.

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

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

The nays were: None.



Absent: Mann—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 Com. Sub. for S. B. 579) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 586**, Reorganizing and redesignating Department of Military Affairs and Public Safety as Department of Homeland Security.

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

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

The nays were: None.

Absent: Mann—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 S. B. 586) passed with its title.

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

**Eng. Senate Bill 651**, Relating to definition of “mortgage loan originator”.

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 651) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—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 S. B. 689) passed with its title.

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

**Eng. Senate Bill 691**, Limiting programs adopted by State Board of Education.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 691) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

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

The nays were: None.

Absent: Mann—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 S. B. 705) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 707**, Relating to nursing career pathways.

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 Senate Bill 707 pass?”

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

The nays were: None.

Absent: Mann—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 S. B. 707) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—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 S. B. 707) takes effect from passage.

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

**Eng. Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

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 Senate Bill 723 pass?”

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 723) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 723) takes effect from passage.

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

**Eng. Senate Bill 727**, Relating to disbursement of funds for highway road repair.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 727) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 728**, Exempting all property used for agricultural purposes from county property maintenance codes or ordinances.

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

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

The nays were: None.

Absent: Mann—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 S. B. 728) passed with its title.

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

**Eng. Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

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 Senate Bill 734 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Smith and Sypolt—2.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 734) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 751**, Removing certain requirements of municipality annexing property within urban growth boundary.

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

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

The nays were: None.

Absent: Mann—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 S. B. 751) passed with its title.

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

**Eng. Senate Bill 755**, Relating to High-Wage Growth Business Tax Credit 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 755) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 770**, Revising requirements for post-doctoral training.

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

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

The nays were: None.

Absent: Mann—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 S. B. 770) passed with its title.

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

**Eng. Senate Bill 782**, Relating to fees assessed by Health Care Authority on certain hospitals.

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

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

The nays were: Tarr—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 782) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 787**, Providing benefits to pharmacists for rendered care.

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 Senate Bill 787 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

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

The nays were: None.

Absent: Mann—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 S. B. 787) passed with its title.

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

**Eng. Senate Bill 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 803) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 803) takes effect from passage.

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

On motion of Senator Takubo, at 1:04 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 2:01 p.m. and resumed business under the eighth order, the next bill coming up in numerical sequence being

**Eng. Senate Bill 837**, Providing exemptions from ad valorem taxes for certain types of personal property.

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

Pending extended discussion,

The question being “Shall Engrossed Senate Bill 837 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 837) passed with its title.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Romano, Lindsay, Hardesty, Baldwin, Ihlenfeld, Stollings, Prezioso, and Facemire regarding the passage of Engrossed Senate Bill 837 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senators Blair, Swope, Tarr, Maroney, Trump, and Roberts regarding the passage of Engrossed Senate Bill 837 were ordered printed in the Appendix to the Journal.

At the request of Senator Maroney, and by unanimous consent, the remarks by Senator Takubo regarding the passage of Engrossed Senate Bill 837 were ordered printed in the Appendix to the Journal.

**Eng. Senate Bill 838**, Directing State Police establish referral program for substance abuse treatment.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 838) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 838) takes effect from passage.

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

**Eng. Com. Sub. for Senate Joint Resolution 9**, Motor Vehicle and Other Personal Property Tax Reduction Amendment.

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

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

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

On third 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 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

On third 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 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

On third 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 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

On third 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.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 38**, Requiring schools provide elective course on Hebrew Scriptures or Bible.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill 213**, Relating to administration of trusts.

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

**Com. Sub. for Senate Bill 246**, Including family court judges in retirement system for judges.

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

**Com. Sub. for Com. Sub. for Senate Bill 284**, Creating WV Health Care Continuity Act.

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

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

On page nine, section ten, line thirty-three, after the word “vary” by inserting the words “by a rate exceeding three to one. In addition, premium rates may vary”.

Following discussion,

The question being on the adoption of Senator Lindsay’s amendment to the bill, the same was put and did not prevail.

The bill (Com. Sub. for Com. Sub. for S. B. 284) was then ordered to engrossment and third reading.

(Senator Weld in the Chair.)

**Com. Sub. for Senate Bill 514**, Creating WV FinTech Regulatory Sandbox Act.



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

**Com. Sub. for Senate Bill 530**, Relating to taxation of aircraft.

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

**Com. Sub. for Senate Bill 614**, Changing method of allocating funding from Safe School Funds.

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

**Com. Sub. for Senate Bill 635**, Allowing administration of small estates.

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

**Com. Sub. for Senate Bill 668**, Enacting Uniform Trust Decanting Act.

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

**Com. Sub. for Senate Bill 739**, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities.

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

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

**Com. Sub. for Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively exempt school.

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

**Com. Sub. for Senate Bill 772**, Clarifying American Law Institute's Restatements of Law.

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

**Com. Sub. for Senate Bill 793**, Relating to B&O taxes imposed on certain coal-fired electric generating units.

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

**Senate Bill 800**, Authorizing electric utilities construct and operate project within electric utility distribution system.

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

**Senate Bill 816**, Updating North American Industry Classification System code references.

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

**Com. Sub. for Senate Bill 819**, Relating to DOH management of Coal Resource Transportation roads.

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

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

On page eleven, section twelve, line sixty-nine, after the word "meeting" by inserting the words "in the county wherein the public road, highway, or bridge is located: *Provided*, That, where a public road, highway, or bridge is located in more than one county, the public meeting shall be conducted in the county containing the longest mileage under designation".

The bill (Com. Sub. for S. B. 819), as amended, was then ordered to engrossment and third reading.

**Senate Bill 828**, Clarifying municipal B&O taxation where business activity occurs.

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

**Senate Bill 831**, Clarifying Economic Development Authority board enter into contracts necessary to carry out duties.

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

**Senate Bill 839**, Creating State Advisory Council on Postsecondary Attainment Goals.

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

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

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.

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:

**Com. Sub. for Senate Bill 106**, Making daylight saving time official time year round in WV.

**Com. Sub. for Senate Bill 123**, Relating generally to pyramid promotional schemes.

**Com. Sub. for Senate Bill 193**, Setting forth timeframes for continuing purchases of commodities and services over \$1 million.

**Com. Sub. for Senate Bill 259**, Requiring mandatory incarceration prior to parole for certain persons convicted of distributing controlled substances near libraries.

**Com. Sub. for Senate Bill 269**, Establishing advisory council on rare diseases.

**Com. Sub. for Com. Sub. for Senate Bill 312**, Relating to provisional licensure of social workers.

**Com. Sub. for Senate Bill 329**, Authorizing DEP promulgate legislative rules.

**Senate Bill 355**, Fire Commission rule relating to State Fire Code.

**Com. Sub. for Senate Bill 356**, Fire Commission rule relating to State Building Code.

**Com. Sub. for Senate Bill 472**, Providing alternative sentencing program for work release.

**Senate Bill 489**, Moving provisions of licensing contractors to chapter 30 of code.

**Com. Sub. for Senate Bill 513**, Protecting consumers against businesses using automatic renewals without consent.

**Senate Bill 569**, Expiring funds from various accounts to DHHR, Medical Services Program Fund.

**Com. Sub. for Senate Bill 570**, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund.

**Com. Sub. for Senate Bill 633**, Creating Medicaid Families First Reserve Fund account.

**Com. Sub. for Com. Sub. for Senate Bill 648**, Providing dental coverage for adult Medicaid recipients.

**Senate Bill 680**, Qualifying not-for-profit private baccalaureate institutions for Advanced Career Education programs and WV Invests Grant Program.

**Com. Sub. for Senate Bill 700**, Exempting physicians from specified traffic laws when responding to emergencies.

**Com. Sub. for Senate Bill 710**, Establishing pilot program to evaluate telemedicine health services.

**Com. Sub. for Senate Bill 711**, Relating to juvenile jurisdiction of circuit courts.

**Com. Sub. for Senate Bill 729**, Relating to awards and disability under Deputy Sheriff Retirement Act.

**Com. Sub. for Senate Bill 738**, Creating Flatwater Trail Commission.

**Com. Sub. for Senate Bill 749**, Requiring Fatality and Mortality Review Team share data with CDC.

**Senate Bill 750**, Establishing extended learning opportunities.

**Com. Sub. for Senate Bill 752**, Relating generally to medical cannabis.

**Senate Bill 758**, Relating to authority of Emergency Medical Services Advisory Council.

**Senate Bill 775**, Requiring two water bottle filling stations be included in newly built or renovated schools.

**Com. Sub. for Senate Bill 785**, Establishing uniform electioneering prohibition area.

**Com. Sub. for Senate Bill 797**, Authorizing governing boards of public and private hospitals employ hospital police officers.

**Com. Sub. for Senate Bill 798**, Requiring dairy foods processed in state be added to list of items to be purchased by state-funded institutions.

**Com. Sub. for Senate Bill 802**, Relating to public utilities generally.

**Senate Bill 805**, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund.

**Senate Bill 812**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.

**Com. Sub. for Senate Bill 820**, Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities.

**Com. Sub. for Senate Bill 821**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

**Senate Bill 830**, Eliminating special merit-based employment system for health care professionals.

**Senate Bill 840**, Creating statutory fee for modifying permits issued by DEP Office of Oil and Gas.

**Senate Bill 841**, Requiring Governor to fix salaries of certain appointed officers after office is vacated.

And,

**Senate Bill 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Beach and Maynard.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 4:46 p.m., the Senate recessed until 6:15 p.m. today.

The Senate reconvened at 7:20 p.m. tonight and, without objection, returned to the third order of business.

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on February 24, 2020, he had approved **Enr. Committee Substitute for Senate Bill 46**, **Enr. Committee Substitute for Senate Bill 364**, **Enr. Committee Substitute for Senate Bill 470**, **Enr. Committee Substitute for Senate Bill 487**, **Enr. Committee Substitute for Senate Bill 500**, **Enr. Committee Substitute for Senate Bill 501**, **Enr. Committee Substitute for House Bill 2602**, **Enr. Committee Substitute for House Bill 2924**, **Enr. Committee Substitute for House Bill 4129**, and **Enr. House Bill 4141**.

The Senate again proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 120**, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

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

**Com. Sub. for Senate Bill 120** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22-10-6 of the Code of West Virginia, 1931, as amended, relating to the establishment of priorities for expenditures for plugging abandoned gas or oil wells; and requiring money that results from the forfeiture of an oil and gas operator's bond as a result of the operator's failure to plug a well or otherwise comply with state statutes and rules to first be applied to correct or mitigate an immediate threat to the environment on the land where the well is located or hindrance or impediment to the development of mineral resources of this state that caused the forfeiture of the bond.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 120) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 716**, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization.



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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 716) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 810**, Implementing federal Affordable Clean Energy rule.

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

**Com. Sub. for Senate Bill 810** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to adoption of a state plan implementing the federal Affordable Clean Energy rule pursuant to section 111(d) of the federal Clean Air Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 810) contained in the preceding report from the Committee on the Judiciary was taken

up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 849** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates generally; prohibiting an insurance company from increasing premiums when reinstating an insurance contract; writing a new policy that was previously cancelled or suspended due to active duty military service of the insured; defining terms; and creating presumption of continuous coverage when lapse occurs while insured is on active duty.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 849) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 850** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-11-21, relating to prohibiting racial discrimination based on certain hair textures and hairstyles.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 850) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 851** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9-7, relating to requiring the Governor's Committee on Crime, Delinquency, and Correction to propose a legislative rule in coordination with law enforcement and certain medical boards; developing policies and protocols for law enforcement and medical professionals to create treatment referral programs for persons suffering from substance use disorder; setting forth requirements for policies and protocols; providing that existing criminal charges not affected; providing civil immunity for law-enforcement officers and medical professionals; and requiring proposal of legislative and emergency rules.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 851) contained in the preceding report from

the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 49** (originating in the Committee on the Judiciary)—Requesting the West Virginia Department of Transportation, Division of Highways, evaluate the October 1, 2018, Updated Oil and Gas Road Policy.

Whereas, Implementation of a responsible regulatory scheme to address the road damage caused by natural gas development, transportation, and storage is in the public interest and should be done in a manner that protects our citizens, our industry, and our roads and highways for current and future generations; and

Whereas, The West Virginia Department of Transportation, Division of Highways, issued the Updated Oil and Gas Road Policy most recently on October 1, 2018; and

*Whereas, It is in the public interest for West Virginia to evaluate whether changes to this policy are needed to reflect current economic and infrastructure conditions; therefore, be it Resolved by the Legislature of West Virginia:*

That the West Virginia Department of Transportation, Division of Highways, is hereby requested to evaluate the October 1, 2018, Updated Oil and Gas Road Policy; and, be it

*Further Resolved, That specific objectives of the study plan shall include: (1) Identifying if there are gaps in the existing policy that resulted in damages to West Virginia roads without correction or reimbursement of costs; (2) coordinating with stakeholders to resolve the issues identified; and (3) if necessary, proposing recommendations for specific amendments to the oil and gas road policy, an alternative policy, or permitting scheme; and, be it*

*Further Resolved*, That the West Virginia Department of Transportation, Division of Highways, report to the Joint Legislative Oversight Committee on Transportation and Infrastructure, during the summer 2020 interim session, on its findings, conclusions, and recommendations.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

**Com. Sub. for Senate Bill 661:** Senator Baldwin.

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

**Senate Bill 497:** Senator Romano;

**Senate Bill 498:** Senator Romano;

**Com. Sub. for Senate Bill 710:** Senator Roberts;

**Com. Sub. for Senate Bill 729:** Senator Roberts;

**Senate Bill 823:** Senator Beach;

**Senate Bill 827:** Senator Beach;

**Senate Concurrent Resolution 43:** Senators Stollings and Lindsay;

**Senate Concurrent Resolution 44:** Senators Stollings and Lindsay;

And,

**Senate Concurrent Resolution 45:** Senator Stollings.

On motion of Senator Takubo, at 7:25 p.m., the Senate adjourned until tomorrow, Tuesday, February 25, 2020, at 11 a.m.

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## TUESDAY, FEBRUARY 25, 2020

The Senate met at 11:16 a.m.

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

Prayer was offered by Pastor Dennis Dye, Interim Pastor, Whitesville First Baptist Church, Whitesville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Craig Blair, a senator from the fifteenth district.

Pending the reading of the Journal of Monday, February 24, 2020,

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

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

The Senate then proceeded 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 339,** Authorizing DHHR promulgate legislative rules.

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 one, line twenty-five, by striking out the word “center”;

On page three, section one, line twenty-five, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendments:

On page 4, by striking subsection 4.2;

On page three, section one, line thirty-three, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendments:

On page 5, by striking subsection 2.36 and inserting a new subsection 2.36 to read as follows: “2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.”;

On page three, section one, line thirty-eight, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendments:

On page 4, by striking subsection 2.29 and inserting a new subsection 2.29 to read as follows: 2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in accordance with §64-110-10.;

On page 12, subdivision 8.1.d., after the words “minimum of”, by deleting the words “four years” and inserting in lieu thereof the words “two years”; and

On page 13, subparagraph 8.2.f.2., after the words “recording for”, by deleting the words “four years” and inserting in lieu thereof the words “two years”.”

And,

On page 15, by striking section §64-110-10 and inserting in lieu thereof new §64-110-10 to read as follows:

**“§64-110-10. Forms of medical cannabis.**

10.1. A grower/processor may only process medical cannabis for dispensing to a patient or caregiver in the following forms:

10.1.a. Pill;

10.1.b. Oil;

10.1.c. Topical forms, including gel, creams, and ointments;

10.1.d. A form medically appropriate for administration by vaporization or nebulization;

10.1.e. Liquid;

10.1.f. Dermal patch; or

10.1.g. Dry leaf or plant form.

10.2. A grower/processor may not manufacture, produce, or assemble any medical cannabis product, instrument, or device without prior written approval of the bureau.”;

On page four, section one, line forty-three, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendments:

On page 3, by striking subsection 2.15 and inserting a new subsection 2.15 to read as follows: “2.15 “Medical cannabis” means cannabis that is grown and sold which are certified for medical use in 64 CSR 110.”;

On page four, section one, line forty-eight, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendment:

On page 3, by striking subsection 2.19 and inserting a new subsection 2.19 to read as follows: “2.19 “Medical cannabis”



means cannabis that is grown and sold which are certified for medical use in 64 CSR 110.”; and

On page 12, subdivision 11.1.d., after the words “minimum of”, by deleting the words “four years” and inserting in lieu thereof the words “two years”.

On page four, section one, line fifty-three, after the word “authorized” by changing the period to a comma and inserting the following: “with the following amendment:

On page 1, by striking subsection 2.7 and inserting a new subsection 2.7 to read as follows: “2.7 “Medical cannabis” means cannabis that is grown and sold which are certified for medical use in 64 CSR 110.”;

And,

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

**Eng. Com. Sub. for Senate Bill 339**—A Bill to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to fees for permits; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to vital statistics; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to primary care support program; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to primary care seed money grants; authorizing the Department of

Health and Human Resources to promulgate a legislative rule relating to medical cannabis program—general provisions; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical cannabis program—grower/processors; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical cannabis program—laboratories; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical cannabis program—dispensaries; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical cannabis program—safe harbor letter; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the collection and exchange of data related to overdoses; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults in West Virginia; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a provisional license to practice as a social worker within the Department of Health and Human Resources; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to pilot program for drug screening of applicants for cash assistance; and authorizing the Health Care Authority to promulgate a legislative rule relating to critical access hospitals.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 339) were reported by the Clerk, considered simultaneously, and adopted:

On page one, by striking out the following House of Delegates amendment on page three, line thirty-three: “2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.36 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”;

On page one, by striking out the following House of Delegates amendment on page three, line thirty-eight: 2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64-110-10.” and inserting in lieu thereof the following:

“2.29 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”;

On page two, by striking out the following House of Delegates amendment on page four, line forty-three: “2.15 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.15 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”;

On page three, by striking out the following House of Delegates amendment on page four, line forty-eight: “2.19 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.19 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”;

And,

On page three, by striking out the following House of Delegates amendment on page four, line fifty-three: “2.7 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.7 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

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

Engrossed Committee Substitute for Senate Bill 339, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Azinger, Maynard, and Tarr—3.

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. 339) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Azinger, Maynard, and Tarr—3.

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. 339) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, 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 657**, Allowing designation of tourism development districts.

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 nine, line thirty-six, by striking out “§11-15-1 *et seq.*” and inserting in lieu thereof “§5B-2E-5(c)(2)”;

On page three, section nine, line forty-six, by striking out the words “own or control” and inserting in lieu thereof the words “own, control, or have the right of use to,”;

On page three, section nine, line forty-seven, by striking out the words “ownership or control” and inserting in lieu thereof the words “ownership, control, or right of use”;

On page three, section nine, line fifty-five, by striking out the words “or all”;

On page four, section nine, line sixty-seven, by striking out the words “subsection (b)” and inserting in lieu thereof the words “subsections (b) and (c)”;

On page four, section nine, line sixty-nine, after the word “procedures,” by inserting the words “including any authority pursuant to the Municipal Home Rule program under §8-1-5a of this code,”;

On page four, section nine, line seventy, by striking out the words “and/or” and inserting in lieu thereof the word “or”;

On page five, section nine, line ninety-five, after “§8-1-5a” by inserting a comma and the words “§8-13C-4 and §8-13C-5”;

On page six, section nine, line one hundred sixteen, after the word “code” by inserting the words “and control of nonintoxicating beer pursuant to §11-16-1, *et seq.* of this code”;

On page six, section nine, line one hundred nineteen, by striking out the words “Be designed, acquired, constructed, and equipped” and inserting in lieu thereof the words “Design, acquire, construct and equip the tourism development project or the tourism development expansion project”;

And,

On page seven, section nine, line one hundred forty-six, by striking out the word “initial”.

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

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

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

Engrossed Committee Substitute for Senate Bill 657, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 657 pass?”

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

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, 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 S. B. 657) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

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

Absent: None.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Takubo's aforestated motion had not prevailed.

*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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4009**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to involuntary hospitalization; setting forth a procedure; defining terms; providing for payment for services; limiting liability; requiring the West Virginia Supreme Court of Appeals to generate certain documents; requiring the West Virginia Supreme Court of Appeals to produce

information to hospitals regarding contact information; requiring a report to be filed with the West Virginia Supreme Court of Appeals; requiring certain information to be placed in a medical record; permitting the release of the individual; and setting forth payment for services; and specifying that any action taken under this section does not satisfy the requirements of another section.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4252**—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Board of Acupuncture to promulgate a legislative rule relating to fees for the Board of Acupuncture; authorizing the Board of Acupuncture to promulgate a legislative rule relating to auricular detoxification therapy certificate; authorizing the Board of Acupuncture to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Acupuncture to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication; authorizing the Commissioner of Agriculture to promulgate a legislative rule



relating to grade “A” pasteurized milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia manufacture-grade milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to employment reference and inquiries and background checks; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Spay-Neuter Assistance Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia exempted dairy farms and milk and milk products processing rules; authorizing the Board of Architects to promulgate a legislative rule relating to registration of architects; authorizing the Board of Architects to promulgate a legislative rule relating to fees for registration of architects; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Dentistry to promulgate a legislative rule relating to rule for the West Virginia Board of Dental Examiners; authorizing the Board of Dentistry to promulgate a legislative rule relating to dental advertising; authorizing the Board of Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Dietitians to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Election Commission to promulgate a legislative rule relating to corporate and membership organization political activity; authorizing the Election Commission to

promulgate a legislative rule relating to regulation of campaign finance; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the Board; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Optometry to promulgate a legislative rule relating to rules for the West Virginia Board of Optometry;

authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Registration for Professional Engineers to promulgate a legislative rule relating to examination, licensure and practice of professional engineers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Board of Psychologists to promulgate a legislative rule relating to

consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Commission to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Commission to promulgate a legislative rule relating to consideration of prior criminal convictions in initial license eligibility determination; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to establishment of fees; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to student limited permit; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Sanitarians to promulgate a legislative rule relating to waiver of initial application fees and criteria for initial licensure; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work to promulgate a legislative rule relating to fee schedule; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to disciplinary and complaint procedures for speech-language pathology and audiology; authorizing the State Auditor to promulgate a legislative rule relating to local government purchasing card program; authorizing the State Conservation Committee to promulgate a legislative rule relating to State Conservation Committee Grant Program; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization

and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to registration of veterinary technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4388**—A Bill to amend and reenact §11-16-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-16-18 and §11-16-22 of said code; to amend and reenact §60-2-15 of said code; to amend and reenact §60-8-23 of said code, all relating to removing restrictions on advertising, equipment and services by licensees; adding legislative findings; removing restrictions on equipment, fixtures, signs, and supplies; limiting advertising restrictions to false or misleading advertising, irresponsible consumption, and that which targets underage consumption; clarifying that exterior signs are governed by the Division of Highways; eliminating antiquated rule-making language; and limiting promulgation and enforcement of legislative rules.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4530**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-6D-17, relating to authorizing daily passenger rental car companies to charge reasonable administrative fees when the fees are incidental to or arising from the rental car transaction.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4626**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-9-1, §5B-9-2, §5B-9-3, §5B-9-4, §5B-9-5, §5B-9-6, §5B-9-7, §5B-9-8 and §5B-9-9, all relating to enacting the West Virginia Development Achievements Transparency Act; providing a short title; providing legislative purpose and findings; providing for definitions; outlining reporting requirements for entities providing a development subsidy; directing the Auditor to create a searchable website to view development subsidy data; detailing the items required to be provided on the Auditor's searchable website; protecting confidentiality of certain subsidy data; providing penalties related to the accuracy and timeliness of information reported; and permitting the Auditor to hold public hearings or trainings to ensure compliance with the article.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 4668**—A Bill to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to creating the misdemeanor crime of trespass for entering a structure that has been clearly marked as condemned by a municipality as unfit for human habitation; providing criminal penalty; providing that for a first offense, a municipal judge or magistrate may substitute community correction or pretrial diversion before imposing a penalty.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 4748**—A Bill to amend and reenact §39-4-23 and §39-4-30 of the Code of West Virginia, 1931, as amended, all relating to the increase of fees that private nongovernment notary publics may charge for notarial acts; clarifying the appropriate manner of advertising for non-government notarial services; and providing the proper manner and content of the required disclaimer to notarial customers by private notary publics, which disclaimer clearly notifies notary customers that nonattorney notary publics are not permitted to provide legal services including document drafting, document review, or legal advice.

Referred to the Committee on Government Organization.

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

**Com. Sub. for House Concurrent Resolution 75**—Providing for the naming of the highest peak on Wolf Creek Mountain in Monroe County, “Boone’s Peak”.

Referred to the Committee on Natural Resources; and then to the Committee on Rules.

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 25th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(**Com. Sub. for S. B. 16**), Creating Protect Our Right to Unite Act.

(**Com. Sub. for S. B. 35**), Limiting civil penalty for littering conviction to \$2,000.

(**S. B. 300**), Updating certain terms in WV Corporation Net Income Tax Act.

(**S. B. 310**), Updating certain terms used in WV Personal Income Tax Act.

(**S. B. 321**), Relating to collection of tax and priority of distribution of estate or property in receivership.

And,

(**Com. Sub. for S. B. 676**), Permitting fees from Child Abuse Registry be used for information technology support costs.

Respectfully submitted,

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

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 119**, Creating online voters' guide.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 24, 2020;

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (Com. Sub. for S. B. 119) contained in the



preceding report from the Committee on the Judiciary was taken up for immediate consideration and 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 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

**§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of candidates when section applicable.**

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates, the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit judge, or family court judge, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January before

the primary election day and not later than the last Saturday in January before the primary election day and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge, and magistrate, which are to be filled on a nonpartisan and division basis at the primary election: *Provided*, That on the final day of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the county clerk in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, ~~containing~~ and must contain the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state, and zip code;

(6) For certificates of announcement for the primary election occurring in 2022 and for every election thereafter, a telephone

number, e-mail address, and web address for the candidate's campaign website or social media accounts, if available;

~~(6)~~ (7) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of 60 days before the date of filing the announcement;

~~(7)~~ (8) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain "uncommitted";

~~(8)~~ (9) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

~~(9)~~ (10) The words "subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and a space for the signature of the officer giving the oath.

(e) Prior to the primary election occurring in 2022 and prior to each election occurring thereafter, the Secretary of State shall use the information provided pursuant to subsection (d) of this section, by candidates for the election to any office or political position to be filled by the voters of more than one county, to prepare an electronic voters' guide for the general public. The guide shall be published electronically on the website of the Secretary of State.

~~(e)~~ (f) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter's registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter's

registration record of the candidate are filed with the officer receiving that candidate's certificate of announcement no later than 10 days following the close of the filing period, the candidate may not be refused certification for this reason.

~~(f)~~ (g) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with §3-9-3 of this code.

~~(g)~~ (h) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved or rejected candidates for delegate, and the Secretary of State shall list as "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

~~(h)~~ (i) A person may not be a candidate for more than one office or office division at any election: *Provided*, That a candidate for an office may also be a candidate for President of the United States, for membership on political party executive committees, or for delegate to a political party national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan office in an election held concurrently with the primary election may be appointed under the provisions of §3-5-19 of this code to fill a vacancy on the general ballot.

~~(i)~~ (j) A candidate who files a certificate of announcement for more than one office or division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the close of the filing period may not be certified by the Secretary

of State or placed on the ballot for any office by the board of ballot commissioners.

The bill (Com. Sub. for S. B. 119), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the sixth order of business.

The following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 852**—A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the State Department of Education, School Building Authority, fund 3514, fiscal year 2020, organization 0402, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill, for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 853**—A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, Lottery Net Profits, to the State Department of Education, School Building Authority, fund 3963, fiscal year 2020, organization 0402, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill, for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

Senator Tarr offered the following resolution:

**Senate Resolution 52**—Designating February 26, 2020, as West Virginia Child Care Association Celebrating Children and Families Day at the Legislature.

Whereas, The State of West Virginia and the West Virginia Child Care Association have some of the best child welfare professionals and agencies in the country; and

Whereas, These child welfare professionals and agencies have dedicated their time to making life better for West Virginia's children and families; and

Whereas, These West Virginia professionals and agencies have a compassion that never ends, a hope for a better tomorrow, and a dedication to their efforts over the long haul; and

Whereas, These West Virginia professionals and agencies work with West Virginia's child welfare and behavioral health stakeholders to eliminate policy barriers and day-to-day practices that reduce the effective utilization of in-state resources; and

Whereas, The West Virginia Child Care Association's professionals and agencies do everything possible to provide opportunities for West Virginia's children and families to receive treatment and services in West Virginia, where they can remain in their communities, with their families, and connected to their support systems; and

Whereas, These professionals and agencies are regulated by the State of West Virginia through legislation and by oversight of the West Virginia Department of Health and Human Resources and the Department of Education; and

Whereas, By using West Virginia child welfare professionals and agencies our state is doing what is best for West Virginia's children and their families; and

Whereas, These West Virginia childcare professionals and agencies advocate for, and deliver services and support to provide

for, the safety, well-being and opportunities for children and families to achieve their hopes, dreams, and goals; and

Whereas, These professionals and agencies provide family-driven, youth-guided, culturally competent, and trauma-informed care for the citizens of West Virginia; and

Whereas, These West Virginia professionals, who care for the at-risk children in our state, and the organizations that exist to impact the lives of these children and their families, provide quality care in our communities; and

Whereas, This quality care is provided in a variety of settings, including community agencies, hospitals, residential treatment, family and treatment foster care, educational institutions, and seeks to provide resources and guidance that promotes the safety, well-being and permanency of West Virginia's children and families; and

Whereas, West Virginia's child welfare providers dedicate themselves to excellence in their profession through licensing, advocacy, education, and professional development; and

Whereas, The West Virginia Senate recognizes and appreciates the outstanding dedication, devotion, and care of the West Virginia Child Care Association professionals and agencies for their caring, commitment, and for making a difference in the lives of children in the state of West Virginia, their families, and communities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 26, 2020, as West Virginia Child Care Association Celebrating Children and Families Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Child Care Association.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 47**, Requesting study of effectiveness of current laws maintaining private roads.

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

**Senate Concurrent Resolution 48**, US Army PFC Ronald Lee Berry Memorial Bridge.

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

**Senate Concurrent Resolution 49**, Requesting DOT, DOH evaluate October 1, 2018, "Updated Oil and Gas Road Policy".

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

The question 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.

**Senate Resolution 50**, Designating February 25, 2020, as Fairmont State Day.

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

At the request of Senator Prezioso, 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 the resolution, and on this question, Senator Beach demanded the yeas and nays.



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

The nays were: None.

Absent: Woelfel—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 50) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Prezioso, Romano, and Weld regarding the adoption of Senate Resolution 50 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:01 p.m., the Senate recessed to present Senate Resolution 50.

The Senate reconvened at 12:10 p.m. and resumed business under the seventh order.

**Senate Resolution 51**, Recognizing Shinnston Fire Department's 90th anniversary.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Romano and Facemire regarding the adoption of Senate Resolution 51 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:14 p.m., the Senate recessed to present Senate Resolution 51.

The Senate reconvened at 12:18 p.m. and proceeded to the eighth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 38**, Requiring schools provide elective course on Hebrew Scriptures or Bible.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 24, 2020, for amendments to be received on third reading, 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, with the right to amend on third reading remaining in effect.

**Eng. Com. Sub. for Senate Bill 213**, Relating to administration of trusts.

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

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

The nays were: None.

Absent: Blair—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 S. B. 213) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: Blair—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 S. B. 213) takes effect July 1, 2020.

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

**Eng. Com. Sub. for Senate Bill 246**, Including family court judges in retirement system for judges.

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

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

The nays were: None.

Absent: Blair—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 S. B. 246) 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 Com. Sub. for Senate Bill 284**, Creating WV Health Care Continuity 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 Committee Substitute for Senate Bill 284 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

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

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 284) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 511**, Regulating pawnbrokers.

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

At the request of Senator Jeffries, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motions of Senators Jeffries, Lindsay, and Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page five, by striking all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

**§47-26-4. Providing information to law-enforcement agencies; providing information through third-party database.**

(a) The pawnbroker shall satisfy the requirements of §47-26-2 of this code by transmitting the pawn and purchase transaction information electronically to a database in accordance with this section: *Provided*, That paper copies shall be made available for an on-site inspection upon request of any appropriate law-enforcement authority.

(b) As used in this section:

“Database” means a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;

“Permitted user” means a person authorized by law-enforcement personnel to access the database;

“Reportable data” means the information required to be recorded by pawnbrokers for pawn and purchase transactions pursuant to §47-26-2 of this code, excluding the information recorded under §47-26-2(b)(1);

“Reporting pawnbroker” means a pawnbroker who transmits reportable data electronically to the database; and

“Search” means the accessing of a single database record.

(c) The database shall provide appropriate law-enforcement officials with the information contained in §47-26-2 of this code of this article to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

(d) The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction. The database shall contain the

reportable data recorded by reporting pawnbrokers pursuant to this section. The database shall also contain security features and protections necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section. Pawn and purchase transaction information shall maintain its confidential status and shall only be used for law-enforcement purposes consistent with the provisions of this article.

(e) A pawnbroker shall be responsible for establishing and maintaining the database. A pawnbroker may charge law-enforcement agencies for access to the database. Law-enforcement agencies may be charged directly by the third party or by the pawnbroker for access to the database, and the charge shall be reasonable in relation to the costs of the pawnbroker in establishing and maintaining the database.

(f) The information in the database may only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database. A permitted user may access database information from any jurisdiction within this state. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users within this state regardless of their jurisdiction.

(g) A pawnbroker shall meet the following requirements:

(1) Provide all reportable data to permitted users by transmitting it through the internet to the database;

(2) Transmit all reportable data for one business day to the database prior to the end of the following business day; and

(3) Make available for on-site inspection to any appropriate law-enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

(h) If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of the error shall be given to the

database, which has 30 days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests is allowed no more than 60 days to repair the malfunction, and during that period the pawnbroker is not in violation of this section if good faith efforts are made to correct the malfunction.

(i) A reporting pawnbroker is not obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

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

Engrossed Committee Substitute for Senate Bill 511 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Azinger, Maynard, and Sypolt—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 511) passed.

On motions of Senators Jeffries, Lindsay, and Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill 511**—A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §47-26-2a and §47-26-4, all generally relating to the regulation of pawnbrokers; removing an exception for certain transactions from the report required of all

pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage effective January 1, 2021; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor offenses for certain violations; directing information to be provided to law enforcement; requiring provision of certain information to a third-party reporting database, and providing certain exceptions to those reporting requirements; and increasing the penalties for existing criminal offenses related to pawnbrokers.

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

**Eng. Com. Sub. for Senate Bill 514**, Creating WV FinTech Regulatory Sandbox 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 514) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 530**, Relating to taxation of aircraft.



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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 530) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 530) takes effect July 1, 2020.

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

**Eng. Com. Sub. for Senate Bill 614**, Changing method of allocating funding from Safe School Funds.

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

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

The nays were: None.

Absent: Clements—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 S. B. 614) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Clements—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 S. B. 614) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill 635**, Allowing administration of small estates.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 635) passed with its title.

Senator Takubo moved that the bill take effect January 1, 2021.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 635) takes effect January 1, 2021.

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

**Eng. Com. Sub. for Senate Bill 668**, Enacting Uniform Trust Decanting 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 668) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 668) takes effect July 1, 2020.

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

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively exempt school.

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 Senate Bill 760 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—28.

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

Absent: Beach—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 S. B. 760) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 772**, Clarifying American Law Institute’s Restatements of Law.

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 Senate Bill 772 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—22.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, and Unger—12.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 772) passed with its title.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Trump and Lindsay regarding the passage of Engrossed Committee Substitute for Senate Bill 772 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill 793**, Relating to B&O taxes imposed on certain coal-fired electric generating units.

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 Senate Bill 793 pass?”

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

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 793) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2021.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 793) takes effect July 1, 2021.

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

**Eng. Senate Bill 800**, Authorizing electric utilities construct and operate project within electric utility distribution system.

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

Senator Takubo requested unanimous consent that the bill be referred to the Committee on Rules.

Which consent was not granted, Senator Romano objecting.

Senator Takubo then moved that the bill be referred to the Committee on Rules.

Following discussion,

At the request of Senator Takubo, unanimous consent being granted, Senator Takubo's aforestated motion was withdrawn.

Thereafter, at the request of Senator Weld, and by unanimous consent, the remarks by Senator Takubo regarding his request to withdraw the motion to refer Engrossed Senate Bill 800 to the Committee on Rules were ordered printed in the Appendix to the Journal.

Thereafter, Engrossed Senate Bill 800 was read a third time and put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 800) passed with its title.

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

**Eng. Senate Bill 816**, Updating North American Industry Classification System code references.

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



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

The nays were: Tarr—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 816) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: Tarr—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 816) takes effect July 1, 2020.

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

**Eng. Com. Sub. for Senate Bill 819**, Relating to DOH management of Coal Resource Transportation roads.

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, Clements, Cline, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Romano, Stollings, and Unger—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 819) passed.

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

**Eng. Com. Sub. for Senate Bill 819**—A Bill to amend and reenact §17C-17A-2, §17C-17A-3, §17C-17A-5, and §17C-17A-12 of the Code of West Virginia, 1931, as amended, all relating to coal resource transportation roads; defining certain terms; removing geographical restrictions on eligibility for designation as coal resource transportation road; updating reporting requirements for Division of Highways and Public Service Commission; removing study and reporting requirement for Public Service Commission; updating maximum distance for special crossing permits; removing requirement for Public Service Commission to promulgate emergency rules; updating process and criteria for designation and decertification of coal resource transportation roads; requiring Commissioner of Division of Highways to update directory of coal resource transportation road system; renaming Coal Resource Transportation Designation Committee as Coal Resource Transportation Advisory Committee and redefining authority effective July 1, 2020; providing for two additional members of Coal Resource Transportation Advisory Committee; replacing public hearing and notice requirement for designation and decertification with requirement for public meeting; and correcting technical errors.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Romano, Stollings, and Unger—7.

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. 819) takes effect July 1, 2020.

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

**Eng. Senate Bill 828**, Clarifying municipal B&O taxation where business activity occurs.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 828) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 828) takes effect July 1, 2020.

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

**Eng. Senate Bill 831**, Clarifying Economic Development Authority board enter into contracts necessary to carry out duties.

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

Pending discussion and a point of inquiry to the President, with resultant response thereto,

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

**Eng. Senate Bill 839**, Creating State Advisory Council on Postsecondary Attainment Goals.

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

Pending discussion,

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

On motion of Senator Takubo, at 1:14 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 2:13 p.m. and resumed business under the eighth order.

**Eng. Com. Sub. for Senate Joint Resolution 9, Motor Vehicle and Other Personal Property Tax Reduction Amendment.**

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

Pending extended discussion,

(Senator Weld in the Chair.)

Pending discussion,

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

Pending extended discussion,

Senator Beach moved the previous question.

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

The result of the voice vote being inconclusive, Senator Unger demanded a division of the vote.

A standing vote being taken, there were 11 "yeas" and 23 "nays".

Whereupon, the President declared the motion for the previous question had not prevailed.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Joint Resolution 9 be adopted?"

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker,

Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for S. J. R. 9) rejected.

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

On third 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 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

On third 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 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

On third 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 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

On third 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.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 28**, Allowing WV Board of Medicine investigators to carry concealed weapons.

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

**Com. Sub. for Senate Bill 66**, Requiring State Police to follow towing services policies of county of location.

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

**Com. Sub. for Senate Bill 106**, Making daylight saving time official time year round in WV.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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

The nays were: None.

Absent: Blair—1.

Engrossed Committee Substitute for Senate Bill 106 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 106 pass?”

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

The nays were: Azinger and Woelfel—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 106) passed with its title.

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

**Com. Sub. for Senate Bill 120**, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

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

(Senator Weld in the Chair.)

**Com. Sub. for Senate Bill 123**, Relating generally to pyramid promotional schemes.

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



At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Com. Sub. for Senate Bill 160**, Creating Voluntary WVU Rifle Team Check-Off Program on hunting and fishing licenses.

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

**Com. Sub. for Senate Bill 193**, Setting forth timeframes for continuing purchases of commodities and services over \$1 million.

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

**Com. Sub. for Senate Bill 259**, Requiring mandatory incarceration prior to parole for certain persons convicted of distributing controlled substances near libraries.

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 referred to the Committee on Rules.

**Com. Sub. for Senate Bill 269**, Establishing advisory council on rare diseases.

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

**Com. Sub. for Com. Sub. for Senate Bill 312**, Relating to provisional licensure of social workers.

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

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

On page four, section thirty, line ten, after the word “bureau” by striking out the word “and”;

And,

On page four, section thirty, line fifteen, after the word “families” by changing the period to a colon and adding the following: and

(9) Pay the application fee.

The bill (Com. Sub. for Com. Sub. for S. B. 312), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 329**, Authorizing DEP promulgate legislative rules.

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

**Senate Bill 355**, Fire Commission rule relating to State Fire Code.

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

**Com. Sub. for Senate Bill 356**, Fire Commission rule relating to State Building Code.

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

**Com. Sub. for Senate Bill 472**, Providing alternative sentencing program for work release.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—32.

The nays were: None.

Absent: Facemire and Carmichael (Mr. President)—2.

Engrossed Committee Substitute for Senate Bill 472 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 472) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 472) takes effect from passage.

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

**Senate Bill 489**, Moving provisions of licensing contractors to chapter 30 of code.

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

**Com. Sub. for Senate Bill 513**, Protecting consumers against businesses using automatic renewals without consent.

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

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

On page two, section two, line four, by striking out the words “one month or more” and inserting in lieu thereof the words “more than one month”.

The bill (Com. Sub. for S. B. 513), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill 521**, Relating to job creation and economic incentives.

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

**Senate Bill 569**, Expiring funds from various accounts to DHHR, Medical Services Program Fund.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Senate Bill 569 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 569) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 569) takes effect from passage.

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

**Com. Sub. for Senate Bill 570**, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Committee Substitute for Senate Bill 570 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 570) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 570) takes effect from passage.

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

**Com. Sub. for Com. Sub. for Senate Bill 616**, Relating to employment grievance procedure for public employees.

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

**Com. Sub. for Senate Bill 633**, Creating Medicaid Families First Reserve Fund account.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Committee Substitute for Senate Bill 633 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 633 pass?”

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

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 633) passed with its title.

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



**Com. Sub. for Com. Sub. for Senate Bill 648**, Providing dental coverage for adult Medicaid recipients.

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

**Com. Sub. for Senate Bill 653**, Increasing number of magistrates in Putnam County.

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

**Com. Sub. for Senate Bill 661**, Replacing minimum minutes of instructional time required per day.

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

**Senate Bill 680**, Qualifying not-for-profit private baccalaureate institutions for Advanced Career Education programs and WV Invests Grant Program.

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

**Senate Bill 687**, Increasing compensation of elected county officials.

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

**Com. Sub. for Senate Bill 690**, Permitting street-legal special purpose vehicles on highways.

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

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

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

**ARTICLE 13. STREET-LEGAL SPECIAL PURPOSE VEHICLES.**

**§17A-13-1. Street-legal special purpose vehicles; operation on highways; registration procedures; licensing requirements; equipment requirements.**

(a) Except as required in subsection (c) of this section, an individual may operate a “street-legal special purpose vehicle” on a street or highway.

(b) For the purposes of this section:

“Special purpose vehicle” include all-terrain vehicles, utility terrain vehicles, mini-trucks, pneumatic-tired military vehicles, and full-size special purpose-built vehicles, including those self-constructed or built by the original equipment manufacturer and those that have been modified.

“Street-legal special purpose vehicle” is a special purpose vehicle that meets the requirements of this section.

(c) An individual may not operate a special purpose vehicle as a street-legal special purpose vehicle on a highway if:

(1) The highway is a controlled-access system, including, but not limited to, interstate systems; or

(2) The county, municipality, or the Division of Natural Resources where the highway is located prohibits special purpose vehicles.

(d) Special purpose vehicles are prohibited from traveling a distance greater than 20 miles on a highway displaying centerline pavement markings.

(e) All street-legal special purpose vehicles are subject to the certificate of title provisions of §17A-1-1 *et seq.* of this code.

(f) Nothing in this section authorizes the operation of a street-legal special purpose vehicle in an area that is not open to motor vehicle use.

(g) A street-legal special purpose vehicle may be registered in the same manner as provided for motorcycles pursuant to this chapter.

(h) Upon registration of any street-legal special purpose vehicle pursuant to this section, the Division of Motor Vehicles shall issue a registration plate that is of the same size as Class G special registration plates for motorcycles.

(i) Except as otherwise provided in this section, a street-legal special purpose vehicle shall comply with the Division of Motor Vehicles' licensing, fee, and other requirements pursuant to this chapter.

(j) The owner of a special purpose vehicle being operated as a street-legal special purpose vehicle shall ensure the vehicle is equipped with:

(1) One or more headlamps;

(2) One or more tail lamps;

(3) One or more brake lamps;

(4) A tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(5) One or more red reflectors on the rear;

(6) Amber electric turn system, one on each side of the front;

(7) Amber or red electric turn signals;

(8) A braking system, other than a parking brake;

(9) A horn or other warning device;

(10) A muffler and, if required by an applicable federal statute or rule, an emission control system;

(11) Rearview mirrors on the right and left side of the driver;

(12) A windshield, unless the operator wears eye protection while operating the vehicle;

(13) A speedometer, illuminated for nighttime operation;

(14) For vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(15) Tires that have at least 2/32 inches or greater tire tread.

(16) When owners of a street-legal special purpose vehicle have ensured that such vehicles are equipped as required by this subsection, and those owners obtain a valid registration card and certificate of insurance for such vehicles, those vehicles are eligible to apply for a motorcycle trailer sticker.

(k) Mini-trucks may not be operated as street-legal special purpose vehicles on highways that have been constructed pursuant to a federal highways program.

(l) The Division of Motor Vehicles shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section.

The bill (Com. Sub. for S. B. 690), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 700**, Exempting physicians from specified traffic laws when responding to emergencies.

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

**Com. Sub. for Senate Bill 710**, Establishing pilot program to evaluate telemedicine health services.

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

**Com. Sub. for Senate Bill 711**, Relating to juvenile jurisdiction of circuit courts.

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

**Com. Sub. for Senate Bill 716**, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization.

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

**Com. Sub. for Senate Bill 729**, Relating to awards and disability under Deputy Sheriff Retirement Act.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Committee Substitute for Senate Bill 729 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 729) passed with its title.

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

**Senate Bill 732**, Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals.

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

**Com. Sub. for Senate Bill 738**, Creating Flatwater Trail Commission.

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

**Com. Sub. for Senate Bill 739**, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities.

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

**Com. Sub. for Senate Bill 745**, Creating exemption to state sales and use tax for rental and leasing of equipment.

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

**Com. Sub. for Senate Bill 749**, Requiring Fatality and Mortality Review Team share data with CDC.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—32.

The nays were: None.

Absent: Facemire and Carmichael (Mr. President)—2.

Engrossed Committee Substitute for Senate Bill 749 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 749) passed with its title.

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

**Senate Bill 750**, Establishing extended learning opportunities.

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

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

On page one, section seven-d, line ten, by striking out the word “multiply” and inserting in lieu thereof the words “allow for”;

On page two, section seven-d, line twenty-three, after the word “for” by adding the word “elective”;

On page two, section seven-d, line thirty-five, by striking out the words “with local school districts” and inserting in lieu thereof the words “between the local school, county board, or State Board of Education”;

And,

On page two, section seven-d, line thirty-six, by striking out the words “approved by the State Board of Education”.

The bill (S. B. 750), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 752**, Relating generally to medical cannabis.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Senate Bill 758**, Relating to authority of Emergency Medical Services Advisory Council.

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

**Com. Sub. for Senate Bill 762**, Creating Preserving Patient Stability Act of 2020.



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

**Senate Bill 775**, Requiring two water bottle filling stations be included in newly built or renovated schools.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Weld, and Woelfel—30.

The nays were: Baldwin and Unger—2.

Absent: Trump and Carmichael (Mr. President)—2.

Engrossed Senate Bill 775 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill 775 pass?”

Senator Blair 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 is a Classified Certified Water Specialist Class V.

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

The roll being taken, the yeas were: Azinger, Boley, Clements, Maroney, Maynard, Pitsenbarger, Rucker, Smith, and Trump—9.

The nays were: Baldwin, Beach, Blair, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Roberts, Romano, Stollings, Swope, Sypolt, Takubo, Tarr, Unger, Weld, and Woelfel—24.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. S. B. 775) rejected.

**Com. Sub. for Senate Bill 785**, Establishing uniform electioneering prohibition area.

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

**Com. Sub. for Senate Bill 797**, Authorizing governing boards of public and private hospitals employ hospital police officers.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill 798**, Requiring dairy foods processed in state be added to list of items to be purchased by state-funded institutions.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—32.

The nays were: None.

Absent: Lindsay and Carmichael (Mr. President)—2.

Engrossed Committee Substitute for Senate Bill 798 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 798 pass?”

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

The nays were: None.

Absent: Carmichael (Mr. President)—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 S. B. 798) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill 802**, Relating to public utilities generally.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 805**, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Senate Bill 805 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 805) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 805) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill 810**, Implementing federal Affordable Clean Energy rule.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 812**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

Engrossed Senate Bill 812 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 812) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel—33.

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 812) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill 820**, Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 821**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Trump, 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 7K. IMMUNITY FROM CIVIL LIABILITY FOR CERTAIN GOVERNMENT OR BEHAVIORAL HEALTH FACILITIES AND THEIR EMPLOYEES.**

**§55-7K-1. Limiting civil liability for government or behavioral health facilities and their employees providing crisis stabilization services, alcohol detoxification services, substance use disorder services, or drug overdose services short-term basis.**

(a) Notwithstanding any other provision of this code to the contrary, a behavioral health facility certified or licensed in this state, another state, or operated by the state, or one of its political subdivisions, nor any of its directors, officers, employees, and contractors, is not liable for any civil damages as a result of any act or omission arising from or related to drug and alcohol detoxification services, substance use disorder services, drug overdose services, withdrawal services on a short-term basis, or providing crisis stabilization services related to drug and alcohol detoxification services, substance use disorder services, drug overdose services, and withdrawal services on a short-term basis, so long as the services are provided in good faith and do not involve the gross negligence or willful or wanton misconduct of the facility, or its directors, officers, employees, or contractors.

(b) Notwithstanding any other provision of this code, no behavioral health facility that is licensed in this state, another state, or operated by the state, or one of its political subdivisions, and no residential recovery facility certified by or meeting the standards of a national certifying body, nor any of their directors, officers, employees, and agents shall be liable for injury or civil damages related to the provision of short-term crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, drug overdose services, and/or withdrawal services to the extent the injury or damages arise from an individual's refusal of services, election to discontinue services, failure to follow the orders or instructions of a facility, voluntary departure, elopement, or abandonment from a facility, with or without notice to others, so long as the services are offered in good faith, the facility does not require payment from the individual receiving the services, and the injury or damages are not proximately caused by the gross negligence or willful or wanton misconduct of the facility, or its directors, officers, employees, or agents.

(c) The provisions of this article operate in addition to, and not in derogation of, any of the provisions contained in §55-7B-1 et seq. of this code.

(d) The amendments to this section enacted during the 2020 Regular Session of the Legislature shall be effective July 1, 2020.

Following discussion,

The question being on the adoption of Senator Trump's amendment to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 821), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 829**, Establishing Overland Recreation Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.



**Senate Bill 830**, Eliminating special merit-based employment system for health care professionals.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 832**, Permitting retailers assume sales or use tax assessed on tangible personal property.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 840**, Creating statutory fee for modifying permits issued by DEP Office of Oil and Gas.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 841**, Requiring Governor to fix salaries of certain appointed officers after office is vacated.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section thirteen, line twenty-eight, by striking out the word “a” and inserting in lieu thereof the words “an advisory”;

And,

On page two, section thirteen, line twenty-nine, by striking out the word “establish” and inserting in lieu thereof the words “advise the county superintendent and county board on”.

The bill (S. B. 842), as amended, was then ordered to engrossment and third reading.

**Senate Bill 846**, Requiring hospital publish notification prior to facility closure regarding patient medical records.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 847**, Updating controlled substance lists in Schedules I and V.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Senate Bill 848**, Clarifying persons charged with DUI may not participate in Military Service Members Court.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 849**, Relating to military service as factor in certain insurance coverage rates.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 850**, Prohibiting racial discrimination based on certain hair textures and hairstyles.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 851**, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

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.

Pending announcements of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 5:23 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:32 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill 278**, Providing various methods to deal with defendant who becomes incompetent during trial.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 24, 2020;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 278) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and 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 5. INVOLUNTARY HOSPITALIZATION.**

### **§27-5-1. Appointment of mental hygiene commissioner; duties of mental hygiene commissioner; duties of prosecuting attorney; duties of sheriff; duties of Supreme Court of Appeals; use of certified municipal law-enforcement officers.**

(a) *Appointment of mental hygiene commissioners.* — The chief judge in each judicial circuit of this state shall appoint a competent attorney and may, if necessary, appoint additional attorneys to serve as mental hygiene commissioners to preside over involuntary hospitalization hearings. Mental hygiene commissioners shall be persons of good moral character and of standing in their profession and they shall, before assuming the

duties of such commissioner, take the oath required of other special commissioners as provided in §6-1-1 *et seq.* of this code.

Prior to presiding over an involuntary hospitalization hearing, each ~~All persons~~ newly appointed person to serve as a mental hygiene commissioner, and all magistrates, shall attend and complete an orientation course ~~that, within one year of their appointment, consisting~~ consists of training provided annually by the Supreme Court of Appeals, complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. In addition, existing mental hygiene commissioners and ~~any all~~ magistrates ~~designated by the chief judge of a judicial circuit~~ trained to hold probable cause and emergency detention hearings involving involuntary hospitalization shall attend and complete a course provided by the Supreme Court of Appeals, and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. Persons attending such courses outside the county of their residence shall be reimbursed out of the budget of the Supreme Court—General Judicial for reasonable expenses incurred. The Supreme Court of Appeals shall establish curricula and rules for such courses, including rules providing for the reimbursement of reasonable expenses as authorized herein. The Secretary of the Department of Health and Human Resources shall consult with the Supreme Court of Appeals regarding the development of the orientation program.

(b) *Duties of mental hygiene commissioners.* —

(1) Mental hygiene commissioners may sign and issue summonses for the attendance, at any hearing held pursuant to §27-5-4 of this code, of the individual sought to be committed; may sign and issue subpoenas for witnesses, including subpoenas duces tecum; may place any witness under oath; may elicit testimony from applicants, respondents, and witnesses regarding factual issues raised in the petition; and may make findings of fact on evidence and may make conclusions of law, but such findings and conclusions shall not be binding on the circuit court. All mental hygiene commissioners shall be reasonably compensated at a uniform rate determined by the Supreme Court of Appeals. Mental

hygiene commissioners shall submit all requests for compensation to the administrative director of the courts for payment. Mental hygiene commissioners shall discharge their duties and hold their offices at the pleasure of the chief judge of the judicial circuit in which he or she is appointed and may be removed at any time by such chief judge. It shall be the duty of a mental hygiene commissioner to conduct orderly inquiries into the mental health of the individual sought to be committed concerning the advisability of committing the individual to a mental health facility. The mental hygiene commissioner shall safeguard, at all times, the rights and interests of the individual as well as the interests of the state. The mental hygiene commissioner shall make a written report of his or her findings to the circuit court. In any proceedings before any court of record as set forth in this article, the court of record shall appoint an interpreter for any individual who is deaf or cannot speak or who speaks a foreign language and who may be subject to involuntary commitment to a mental health facility.

(2) A mental hygiene commissioner appointed by the circuit court of one county or multiple county circuits may serve in such capacity in a jurisdiction other than that of his or her original appointment if such be agreed upon by the terms of a cooperative agreement between the circuit courts and county commissions of two or more counties entered into to provide prompt resolution of mental hygiene matters during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days.

(c) *Duties of prosecuting attorney.* — It shall be the duty of the prosecuting attorney or one of his or her assistants to represent the applicants in all final commitment proceedings filed pursuant to the provisions of this article. The prosecuting attorney may appear in any proceeding held pursuant to the provisions of this article if he or she deems it to be in the public interest.

(d) *Duties of sheriff.* — Upon written order of the circuit court, mental hygiene commissioner, or magistrate in the county where the individual formally accused of being mentally ill or ~~addicted~~ having a substance use disorder is a resident or is found, the sheriff of that county shall take said individual into custody and transport him or her to and from the place of hearing and the mental health

facility. The sheriff shall also maintain custody and control of the accused individual during the period of time in which the individual is waiting for the involuntary commitment hearing to be convened and while such hearing is being conducted: *Provided*, That an individual who is a resident of a state other than West Virginia shall, upon a finding of probable cause, be transferred to his or her state of residence for treatment pursuant to §27-5-4(p) of this code: *Provided, however*, That where an individual is a resident of West Virginia but not a resident of the county in which he or she is found and there is a finding of probable cause, the county in which the hearing is held may seek reimbursement from the county of residence for reasonable costs incurred by the county attendant to the mental hygiene proceeding. Notwithstanding any provision of this code to the contrary, sheriffs may enter into cooperative agreements with sheriffs of one or more other counties, with the concurrence of their respective circuit courts and county commissions, whereby transportation and security responsibilities for hearings held pursuant to the provisions of this article during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days may be shared in order to facilitate prompt hearings and to effectuate transportation of persons found in need of treatment. In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff shall contact the state hospital in advance of such transportation to determine if the state hospital has available suitable bed capacity to place the individual.

(e) *Duty of sheriff upon presentment to mental health care facility.* — When a person is brought to a mental health care facility for purposes of evaluation for commitment under this article, if he or she is violent or combative, the sheriff or his or her designee shall maintain custody of the person in the facility until the evaluation is completed, or the county commission shall reimburse the mental health care facility at a reasonable rate for security services provided by the mental health care facility for the period of time the person is at the hospital prior to the determination of mental competence or incompetence.

(f) *Duties of Supreme Court of Appeals.* — The Supreme Court of Appeals shall provide uniform petition, procedure, and order

forms which shall be used in all involuntary hospitalization proceedings brought in this state.

(g) Duties of the Department of Health and Human Resources. – The Secretary shall develop an orientation program as provided in subsection (a). The orientation program shall include, but not be limited to, instruction regarding the nature and treatment of mental illness and substance use disorder; the goal and purpose of commitment; community-based treatment options; and less restrictive alternatives to inpatient commitment.

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.**

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined ~~is addicted,~~ has a substance use disorder as defined in § 27-1-11 of this code, by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal or is mentally ill and, because of his or her ~~addiction~~ substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, ~~or~~ psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided, That a diagnosis of dementia alone, may not serve as a basis for involuntary commitment.*

Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services for the individual's mental illness or ~~addiction~~ substance use disorder.



(b) The person making the application shall make the application under oath.

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides or of the county in which he or she may be found. ~~When no circuit court judge or mental hygiene commissioner is available for immediate presentation of the application, the application may be made to a magistrate designated by the chief judge of the judicial circuit to accept applications and hold probable cause hearings.~~ A designated magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application as may be required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or ~~designated~~ magistrate may enter an order for the individual named in the application to be detained and taken into custody for the purpose of holding a probable cause hearing as provided in §27-5-2(g) of this code for the purpose of an examination of the individual by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician assistant or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been

authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or ~~addiction~~ substance use disorder sufficient to make the determinations as are required by the provisions of this section. The examination is to be provided or arranged by a community mental health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the hearing be held forthwith and is to provide for the appointment of counsel for the individual: *Provided, however,* That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than forthwith if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further,* That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or in the event of a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, "psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician assistant, or advanced nurse practitioner with psychiatric certification has within the preceding 72 hours performed the examination required by the provisions of this subsection, the community mental health center may waive the duty to perform or arrange another examination upon approving the previously

performed examination. Notwithstanding the provisions of this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has no substance use disorder or is determined to be mentally ill or ~~addicted~~ has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately provide the mental hygiene commissioner, circuit court, or designated magistrate before whom the matter is pending the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing is to be held before a magistrate, ~~designated by the chief judge of the judicial circuit~~, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours.

The individual must be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and to examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not there is probable cause to believe that the individual, as a result of mental illness or ~~addiction-substance use disorder~~, is likely to cause serious harm to himself or herself or to others.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use

videoconferencing and telephonic technology; permit persons hospitalized for ~~addiction~~ substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or others and because of mental illness or ~~addiction~~ a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or ~~addiction~~ substance use disorder remains likely to

cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to the provisions of §27-5-3 of this code may be entered. ~~In the event a person released pursuant to a voluntary treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance coverage, including, but not limited to, private insurance or Medicaid, the Secretary of the Department of Health and Human Resources may transfer funds for the purpose of reimbursing community providers for services provided on an outpatient basis for individuals for whom payment for treatment is the responsibility of the department: *Provided*, That the department may not authorize payment of outpatient services for an individual subject to a voluntary treatment agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of involuntary hospitalization. Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided, however*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or~~

modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

Notwithstanding anything in this article to the contrary, the commitment of any person as provided in this article shall be in the least restrictive setting and in an outpatient community-based treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section who is acting in a manner consistent with the standard of care establishes that the commitment or treatment of such person requires an inpatient hospital placement.

(i) If the certifying ~~physician or psychologist~~ professional determines that a person requires involuntary hospitalization for a ~~an addiction to a substance~~ substance use disorder which, due to the degree of ~~addiction~~ such disorder, creates a reasonable likelihood that withdrawal or detoxification ~~from the substance of addiction~~ will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

**§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.**

(a) *Admission to a mental health facility for examination.* — Any individual may be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code ~~and upon a finding by a licensed physician that the individual is medically stable; and upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 et seq. of this code, or an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 et seq. of this code, or a physician assistant practicing in compliance with §30-3E-1 et seq. of this code with advanced duties in psychiatric medicine~~ that he or she has examined the individual and is of the opinion that the individual is mentally ill or ~~addicted~~ has a substance use disorder and, because of such mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or to others if not immediately restrained: *Provided*, That the opinions offered by an independent clinical social worker, ~~or an advanced nurse practitioner with psychiatric certification,~~ or physician assistant with advanced duties in psychiatric medicine must be within their particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification.* — The certification required in §27-5-3(a) of this code shall be valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* — A certification under this section must include findings and conclusions of the mental examination, the date, time and place of

the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based.

(e) *Notice requirements.* — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) ~~Five-day~~ *Three-day time limitation for examination and certification at mental health facility or state hospital.* — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than ~~five~~ three days, excluding Sundays and holidays, unless, within the period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is mentally ill or ~~addicted~~ has a substance use disorder and is likely to injure himself, herself, or others if allowed to be at liberty. In the event the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to self or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the person as appropriate as soon as practicable.

(g) ~~Fifteen-day~~ *Ten-day time limitation for institution of final commitment proceedings.* — If, in the opinion of the examining physician, the patient is mentally ill or ~~addicted~~ has a substance use disorder and because of the mental illness or ~~addiction~~ substance use disorder is likely to injure himself, herself, or others if allowed



to be at liberty, the chief medical officer shall, within ~~45~~ 10 days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within such ~~45-day~~ 10-day period, the patient shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~Thirty-day~~ Twenty-day *time limitation for conclusion of all proceedings.* — If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within ~~30~~ 20 days from the date of institution of the proceedings, the patient shall be immediately released.

#### **§27-5-4. Institution of final commitment proceedings; hearing requirements; release.**

(a) *Involuntary commitment.* — Except as provided in section three of this article, no individual may be involuntarily committed to a mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence.

(b) *How final commitment proceedings are commenced.* — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found or the county of a mental health facility if he or she is hospitalized in a mental health

facility or state hospital located in a county other than where he or she resides or may be found.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed. —*

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or ~~addiction~~ substance use disorder. The applicant shall state in detail the recent overt acts upon which the belief is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents, filed with a circuit court, mental hygiene commissioner or designated magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner or designated magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. § 922, and the central state mental health registry, in accordance with § 61-7A-1 *et seq.* of this code. Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications may not be accepted for individuals who only have epilepsy, ~~a mental deficiency, senility~~ dementia, or an intellectual or developmental disability.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate. —*

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or ~~addicted~~ has a substance use disorder and that because of the mental illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and, therefore, should be hospitalized. The certificate shall state in detail the recent overt acts on which the conclusion is based.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, forthwith fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

- (1) The nature of the charges against the individual;
- (2) The facts underlying and supporting the application of involuntary commitment;
- (3) The right to have counsel appointed;
- (4) The right to consult with and be represented by counsel at every stage of the proceedings; and
- (5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin or to the circuit court in the county of the individual's residence may be by personal service of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

*(g) Examination of individual by court-appointed physician, ~~or~~ psychologist, advanced nurse practitioner, or physician assistant; custody for examination; dismissal of proceedings. —*

(1) Except as provided in subdivision (3) of this subsection, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, ~~or~~ psychologist, an advanced nurse practitioner with psychiatric certification, or a physician assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or ~~addiction~~ substance use disorder of the individual and the likelihood of causing serious harm to self or others.

(2) If the designated physician, ~~or~~ psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, ~~or~~

psychologist, nurse practitioner, or physician assistant. All such orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to section three of this article.

(3) If the reports of the appointed physician, ~~or~~ psychologist, nurse practitioner, or physician assistant do not confirm that the individual is mentally ill or ~~addicted~~ has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel required.* —

(1) The individual shall be present at the final commitment hearing and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) In the event the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of the name, address and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) *Duties of counsel representing individual; payment of counsel representing indigent.* —

(1) Counsel representing an individual shall conduct a timely interview, make investigation and secure appropriate witnesses, be present at the hearing and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to ~~physicians or psychologists~~ health care professionals appointed under subsection (g) of this section by the individual may be admitted into evidence by the ~~physician's or psychologist's~~ such health care professional testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A ~~psychologist or physician~~ health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or section two or three of this article, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where

an indigent person intends to pursue further proceedings, the circuit court shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following:

(A) Whether the individual is mentally ill or ~~addicted~~ has a substance use disorder;

(B) Whether, because of illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual: Provided, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(1) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order.* —

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for ~~an indeterminate period or for a temporary observatory period not~~

exceeding six months, a period not to exceed 90 days except as otherwise provided herein. During such period and solely for individuals who are committed under § 27-6A-1 et seq. of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer acting in good faith and in a manner consistent with the standard of care determines that (i) the individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after such notice unless the court of record stays the discharge of such patient. In the event the court stays the discharge of the patient, the court shall conduct a hearing within 45 days of the stay and the patient shall be thereafter discharged unless the court finds by clear and convincing evidence that such patient is a significant and present danger to self or others and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment at the mental health facility or state hospital at any time for a period longer than 90 days then the individual shall remain at the mental health facility or state hospital until such time as the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment. The chief medical officer shall provide notice to the court and the prosecuting attorney that the individual requires commitment for a period in excess of 90 days and, in such notice, the chief medical officer shall describe the reasons for ongoing commitment. In its discretion, the court or prosecuting attorney may request such information from the chief



medical officer that the court or prosecuting attorney deems appropriate to justify the need for the individual's ongoing commitment.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment and the mental illness or serious emotional disturbance is in remission;

(B) Whether the individual's condition resulting from mental illness or substance use disorder is likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others unless treatment is continued;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual is not a danger to self or others; and

(F) Whether mandatory outpatient treatment is a suitable less restrictive alternative to ongoing commitment.

(2) (3) The individual may not be detained in a mental health facility or state hospital for a period in excess of ten days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

~~(3) If the order pursuant to a final commitment hearing is for a temporary observation period, the circuit court or mental hygiene commissioner may, at any time prior to the expiration of such period on the basis of a report by the chief medical officer of the mental health facility in which the patient is confined, hold another hearing pursuant to the terms of this section and in the same manner as the hearing was held as if it were an original petition for~~

~~involuntary hospitalization to determine whether the original order for a temporary observation period should be modified or changed to an order of indeterminate hospitalization of the patient. At the conclusion of the hearing, the circuit court shall order indeterminate hospitalization of the patient or dismissal of the proceedings.~~

~~(4) An order for an indeterminate period expires of its own terms at the expiration of two years from the date of the last order of commitment unless prior to the expiration, the Department of Health and Human Resources, upon findings based on an examination of the patient by a physician or a psychologist, extends the order for indeterminate hospitalization. If the patient or his or her counsel requests a hearing, a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.~~

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is deemed by the court to remain an imminent danger to self or others.

(5) In the event the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the patient or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

(m) Dismissal of proceedings. – In the event the individual is discharged as provided in subsection (l), If the circuit court or mental hygiene commissioner shall finds that the individual is not mentally ill or addicted, the proceedings shall be dismissed. If the circuit court or mental hygiene commissioner finds that the individual is mentally ill or addicted but is not, because of the illness or addiction, likely to cause serious harm to self or others if allowed to remain at liberty, the proceedings shall be dismissed. dismiss the proceedings.

(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall

immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.

(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order.* —

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility, a transcript of the evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall forthwith be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth above, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted forthwith to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person.* — In lieu of ordering the patient to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible person a bond in an amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state.* — If the individual found to be mentally ill or ~~addicted~~ having a substance use disorder by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be forthwith given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources.* —

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall forthwith make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall forthwith, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission.* —

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of

record for any physician, psychologist and witness called by the indigent individual. The copying and mailing costs associated with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

**§27-5-10. Transportation for the mentally ill or ~~substance abuser~~ persons with substance use disorder.**

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* of this code, it shall be the duty of the sheriff to provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to article four of this chapter, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that such means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* Sheriffs and municipal governments are hereby authorized to enter into written agreements whereby certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer" means any duly authorized member of a municipal law-

enforcement agency who is empowered to maintain public peace and order, make arrests and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of such transportation to determine if the state hospital has suitable bed capacity to place the individual.

(e) ~~(d)~~ Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

## **ARTICLE 6A COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.**

### **§27-6A-12. Study of adult criminal competency and responsibility issues; requiring and requesting report and proposed legislation; submission to legislature.**

a) The Secretary of the Department of Health and Human Resources is directed to, in collaboration with designees of the Supreme Court of Appeals, the Prosecuting Attorney's Institute, Public Defender Services, Disability Rights of West Virginia designees of the Board of Medicine, Board of Osteopathy, and the Board Examiners of Psychologists with experience in issues of competence and criminal responsibility, undertake an evaluation of the provisions of this article in the context of current constitutional requirements related to competency and responsibility issues, best medical practices, and pharmacological developments and promulgate proposed legislation to update the provisions of this article.

(b) The legislation required by the provisions of subsection (a) of this section shall be submitted the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.

The bill (S. B. 278), as amended, was then ordered to engrossment and third reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration  
**Senate Bill 765**, Modifying “Habitual Offender” statute.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 24, 2020;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 765) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and 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 11. GENERAL PROVISIONS CONCERNING CRIMES**

### **§61-11-18. Punishment for second or third offense of felony.**

(a) For purposes of this section, “qualifying offense” means any offenses or an attempt or conspiracy to commit any of the offenses in the following provisions of this code:

- (1) §60A-4-401(i) and (ii);
- (2) §60A-4-406;
- (3) §60A-4-409(b)(1), (2), and (3);
- (4) §60A-4-411;
- (5) §60A-4-414;
- (6) §60A-4-415;
- (7) §60A-4-416(a);
- (8) §61-2-1;
- (9) §61-2-4;
- (10) §61-2-7;
- (11) §61-2-9(a);
- (12) §61-2-9a(d) and (e);
- (13) §61-2-9b;
- (14) §61-2-9d;
- (15) §61-2-10;
- (16) §61-2-10b(b) and (c);
- (17) Felony provisions of §61-2-10b(d);
- (18) §61-2-12;
- (19) Felony provisions of §61-2-13;
- (20) §61-2-14;
- (21) §61-2-14a (a) and (d);
- (22) §61-2-14c;



- (23) §61-2-14d(a) and (b);
- (24) §61-2-14f;
- (25) §61-2-14h(a), (b), and (c);
- (26) §61-2-16a(a) and (b);
- (27) Felony provisions of §61-2-16a(c);
- (28) §61-2-28(d);
- (29) §61-2-29(d) and (e);
- (30) §61-2-29a;
- (31) §61-3-1;
- (32) §61-3-2;
- (33) §61-3-3;
- (34) §61-3-4;
- (35) §61-3-5;
- (36) §61-3-6;
- (37) §61-3-7;
- (38) §61-3-11;
- (39) §61-3-27;
- (40) §61-3C-14b;
- (41) §61-3E-5;
- (42) §61-5-17(b), (f), (h), and (i);
- (43) §61-5-27;
- (44) §61-6-24;

(45) Felony provisions of §61-7-7;

(46) §61-7-12;

(47) §61-7-15;

(48) §61-7-15a;

(49) §61-8-12;

(50) §61-8-19(b);

(51) §61-8B-3;

(52) §61-8B-4;

(53) §61-8B-5;

(54) §61-8B-7;

(55) §61-8B-9;

(56) §61-8B-10;

(57) §61-8C-2;

(58) §61-8C-3;

(59) §61-8C-3a;

(60) §61-8D-2;

(61) §61-8D-2a;

(62) §61-8D-3;

(63) §61-8D-3a;

(64) §61-8D-4;

(65) §61-8D-4a;

(66) §61-8D-5;

(67) §61-8D-6;

(68) §61-10-31;

(69) §61-11-8;

(70) §61-11-8a;

(71) §61-14-2; and

(72) §17C-5-2(b), driving under the influence causing death.

~~(a)~~ (b) Except as provided by subsection ~~(b)~~ (c) of this section, when any person is convicted of ~~an~~ a qualifying offense and is subject to confinement in the state correctional facility therefor, and it is determined, as provided in section nineteen of this article, that such person had been before convicted in the United States of a crime punishable by confinement in a penitentiary, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in such case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under such sentence.

~~(b)~~ (c) Notwithstanding ~~the provisions of subsection (a) or (c) of this section or any other provision of this code to the contrary,~~ when any person is convicted of first degree murder or second degree murder or a violation of section three, article eight-b of this chapter and it is determined, as provided in section nineteen of this article, that such person had been before convicted in this state of first degree murder, second degree murder or a violation of section three, article eight-b of said chapter or has been so convicted under any law of the United States or any other state for an offense which has the same elements as any offense described in this subsection, such person shall be punished by confinement in the state correctional facility for life and is not eligible for parole.

~~(c)~~ (d) When it is determined, as provided in section nineteen of this article, that such person shall have been twice before convicted in the United States of—a crime punishable by confinement in a penitentiary which has the same elements as a

qualifying offense, the person shall be sentenced to ~~be confined~~ imprisonment in ~~the state~~ a correctional facility for life: Provided, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: Provided, however, That an offense which would otherwise constitute a qualifying offense for purposes of this subsection and subsection (b) of this section shall not be considered if more than 20 years have elapsed between that offense and the conduct underlying the current charge.

**§61-11-19. Procedure in trial of persons for second or third offense.**

~~It shall be the duty of the~~ A prosecuting attorney, when he or she has knowledge of a former sentence or sentences to the penitentiary of any person convicted of an offense punishable by confinement in the penitentiary, ~~to~~ may give information thereof to the court immediately upon conviction and before sentence. Said court shall, before expiration of the term at which such person was convicted, cause such person or prisoner to be brought before it, and upon an information filed by the prosecuting attorney, setting forth the records of conviction and sentence, or convictions and sentences, as the case may be, and alleging the identity of the prisoner with the person named in each, shall require the prisoner to say whether he or she is the same person or not. If he or she says he or she is not, or remains silent, his or her plea, or the fact of his or her silence, shall be entered of record, and a jury shall be impaneled to inquire whether the prisoner is the same person mentioned in the several records. If the jury finds that he or she is not the same person, he or she shall be sentenced upon the charge of which he or she was convicted as provided by law; but if they find that he or she is the same, or after being duly cautioned if he or she acknowledged in open court that he or she is the same person, the court shall sentence him or her to such further confinement as is prescribed by section eighteen of this article on a second or third conviction as the case may be: Provided, That where the person is convicted pursuant to a plea agreement the agreement shall address whether or not the provisions of this section and § 61-11-18 of this code are to be invoked.

The clerk of such court shall transmit a copy of said information to the ~~warden of the penitentiary~~ Commissioner of the Division Corrections and Rehabilitation, together with the other papers required by the provisions of § 62-8-10 of this code.

Nothing contained herein shall be construed as repealing the provisions of § 62-8-4 of this code, but no proceeding shall be instituted by the warden, as provided therein, if the trial court has determined the fact of former conviction or convictions as provided herein

The bill (S. B. 765), as amended, was then ordered to engrossment and third reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund.

And,

**Senate Bill 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 845** (originating in the Committee on Finance)—A Bill making a supplementary appropriation of federal funds out of the State Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

**Com. Sub. for Com. Sub. for Senate Bill 579:** Senator Sypolt.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bill and resolutions:

**Com. Sub. for Senate Bill 120:** Senators Jeffries and Rucker;

**Senate Concurrent Resolution 47:** Senators Lindsay and Stollings;

**Senate Concurrent Resolution 48:** Senators Lindsay, Stollings, Romano, Jeffries, and Unger;

**Senate Resolution 50:** Senators Lindsay, Cline, Stollings, Rucker, Romano, Jeffries, Unger, and Hamilton;

And,

**Senate Resolution 51:** Senators Lindsay, Prezioso, Stollings, Jeffries, Unger, and Hamilton.

On motion of Senator Takubo, at 6:45 p.m., the Senate adjourned until tomorrow, Wednesday, February 26, 2020, at 10 a.m.

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## WEDNESDAY, FEBRUARY 26, 2020

The Senate met at 10:21 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Jennie Lawrence, Abney Street Church of God, St. Albans, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Tuesday, February 25, 2020,

At the request of Senator Hardesty, 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, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Rollan A. Roberts, a senator from the ninth district, privileges of the floor for the day.

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2149**—A Bill to amend and reenact §11-13DD-3 of the Code of West Virginia, 1931, as amended, relating to the Farm-To-Food Bank Tax Credit; and allowing the credit to equal 30 percent of the value of the donated edible agricultural products when the value is \$2,500 or less.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2646**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-4a, relating to providing a safe harbor for employers to correct underpayment or nonpayment of wages and fringe benefits due to separated employees prior to the filing of a lawsuit; prohibiting an employee from seeking liquidated damages or attorney's fees when bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment without first making a written demand to the employer; requiring the employer to inform the employee of who the authorized representative is and where to send a written demand; permitting only those employees who have made a written demand to the employer to be included in a class action lawsuit brought for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment; allowing the class action to proceed if only the named employee is paid; and defining the term "written demand".

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of



**Eng. Com. Sub. for House Bill 4019**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, §11-13FF-5, §11-13FF-6, §11-13FF-7, §11-13FF-8, §11-13FF-9, §11-13FF-10, §11-13FF-11, §11-13FF-12, §11-13FF-13, §11-13FF-14, §11-13FF-15, §11-13FF-16, §11-13FF-17, §11-13FF-18, §11-13FF-19, and §11-13FF-20, all relating generally to creating the Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020; providing for administration and enforcement of act; providing a short title; making legislative findings; stating legislative purpose; defining terms; specifying an amount of credit allowable based on amount of qualified investment and the number of new jobs created; providing limitations and conditions for qualification and use; defining in service or use; providing for the application of the credit to the corporate net income tax and the personal income tax, as appropriate; providing for methods of calculation of the qualified investment; providing for determination and certification of the number of new jobs; providing for carry over and forfeiture of unused tax credits and redetermination of tax credits under certain circumstances; providing limitations for credits being carried over; providing for full recapture and partial recapture of credit under certain circumstances and imposing a recapture tax; allowing transfer of qualified investment property without forfeiture or recapture under certain circumstances; requiring identification of qualified investment property and record keeping; providing penalties for failure to keep required records; providing for interpretation and construction of credit; requiring timely filing of application for credit; specifying burden of proof; requiring periodic tax credit review and accountability reports; authorizing rulemaking; making credit subject to West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing for severability; and specifying effective date.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4354**—A Bill to amend and reenact §60A-2-201 of the Code of West Virginia, 1931, as amended, relating to drugs; and providing that the sale, wholesale, distribution or prescribing of nabiximol in a product approved by the Food and Drug Administration is permitted and shall be placed on the schedules of controlled substances or descheduled as provided for by the Drug Enforcement Administration.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4360**—A Bill to amend and reenact §21-16-3 of the Code of West Virginia, 1931, as amended, relating to heating, ventilating, and cooling system licensing requirements; exempting from licensure requirements certain persons only performing electrical, or plumbing work on a heating, ventilating, and cooling system, including, but not limited to, thermostats, bathroom fans, and tankless water heater ventilation; providing for recognition of verified military service, training or education; and clarifying reciprocity provisions.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4377**—A Bill to amend the code of west virginia, 1931, as amended, by adding thereto a new article, designated §32-6-601, §32-6-602, §32-6-603, §32-6-604, §32-6-605, §32-6-606, §32-6-607, §32-6-608, §32-6-609 and §32-6-610, all relating to the creation of the protection of eligible adults from financial exploitation; defining terms; establishing the obligations and duties of broker-dealers and investment advisers to

notify certain agencies of potential financial exploitation; permitting broker-dealers and investment advisers to delay a disbursement when financial exploitation is suspected; requiring the retention of records; and providing immunity from administrative and civil liability.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4396**—A Bill to amend and reenact §7-1-16 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-1-9, all relating generally to the Commission on Special Investigations and the State Auditor being informed of fraud and misappropriations by county and municipal governments.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4409**—A Bill to amend and reenact §33-3-33a of the Code of West Virginia, 1931, as amended, relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund, at its existing sunset date of June 30, 2020, to the Fire Service Equipment and Training Fund and the State Auditor's Chief Inspector's Fund.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4421**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2J-1 and §5B-2J-2; and to amend said code

by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, §11-13FF-5, §11-13FF-6, §11-13FF-7, §11-13FF-8, §11-13FF-9, and §11-13FF-10, all relating to the creation of the Natural Gas Liquids Economic Development Act and the West Virginia Natural Gas Liquids Property Tax Adjustment Act; providing for short titles; making legislative findings and declarations; defining terms; creating a tax credit for eligible taxpayers who are in business for the transportation and storage of natural gas liquids; establishing eligibility requirements; defining the amount of the tax credit as being the amount paid yearly in West Virginia ad valorem property tax on inventory and equipment by an eligible taxpayer; providing for the application of the tax credit against personal income tax liability or the corporate net income tax liability; providing for the carrying forward of the tax credits; defining the tax credits' relationship to other available tax credits; providing for the expiration of unused tax credits; providing for annual schedules to be filed to claim the tax credit; providing for successors and transfers of the tax credit under certain conditions; providing for recapture of tax credits, interest, civil penalties, and additional taxes under certain conditions when a tax payer improperly claims a tax credit; providing a statute of limitations regarding tax filings with the tax credit; providing for reporting to the Legislature on the tax credits applied; authorizing the Tax Commissioner to promulgate rules; and providing for an effective date and an expiration date.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4433**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-2a, all relating to deeds of trust; establishing rules of construction for deeds of trust; establishing certain rights, duties and obligations of parties to a deed of trust; and setting forth exceptions to rules of construction.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4447**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5S-9a, relating to creation of the shared table initiative for senior citizens who suffer from food insecurity; stating findings; acknowledging the success of a similar initiative in public schools; stating the purpose of the bill; granting rule-making authority with certain minimum contents; stating certain requirements for guidelines and guidance policies; stating certain requirements regarding health guidelines, compliance, and coverage; authorizing certain collaboration; and authorizing the Bureau for Senior Services to make certain requirements.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4464**—A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to driving privileges and requirements for persons under the age of 18; prohibiting the holder of a level three, full class E license from using a wireless communication device while operating a motor vehicle and specifying exception; and making a violation of level three license terms and conditions subject to criminal penalty provision; and relating to extending the validity of a level one instruction driver's permit to 180 days after a person who is an active member of the military reaches the age of 18 years.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4606**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-11-6a, relating to listing contractor classifications on a contractor license.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4715**—A Bill to amend and reenact §8-14-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-15-1 of said code, all relating to authorizing municipalities to take action to grant certain fire department employees limited power of arrest and investigation; allowing those persons to make arrests and obtain arrest warrants in certain circumstances; and requiring those persons to complete an initial and annual training.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4760**—A Bill to amend and reenact §29-22B-1202 of the Code of West Virginia, 1931, as amended, relating to modifying video lottery retailer licensing eligibility requirements; modifying the distance measurements from prohibited structures by equalizing the measurement standards for licensed video lottery licenses with that of the Alcoholic Beverage Commission's distance measurements from certain prohibited locations for private clubs' licenses.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4797**—A Bill to amend and reenact §8-12-16 of the Code of West Virginia, 1931, as amended, relating to authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership under certain circumstances.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4803**—A Bill to amend and reenact §29-3C-3 and §29-3C-5 of the Code of West Virginia, 1931, as amended, all relating to certification of electrical inspectors.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4823**—A Bill to amend and reenact §24-6-3 of the Code of West Virginia, 1931, as amended, relating to emergency 911 telephone system and wireless enhanced 911 fees; and requiring the Public Service Commission in cooperation with the State Auditor to develop a plan for periodic audits of the expenditure of the fees from these systems.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4853**—A Bill to amend and reenact §24-3-2 of the Code of West Virginia, 1931, as amended, relating to prohibiting a public service district or municipality that owns or operates a water or sewer public utility from prohibiting a customer from constructing, installing, or maintaining a connection or other infrastructure necessary for the customer to connect to the public utility to receive service; and providing for requirements and conditions for the same.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4859**—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; and to amend and reenact §12-4-14b of said code, all relating to accounting for state funds distributed to volunteer and part-volunteer fire companies and departments; clarifying that use of such moneys for debt reduction is authorized only if the debts were incurred for specified purposes; authorizing the investment of such moneys with certain restrictions; and amending the definition of ‘state funds accounts’.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4872**—A Bill to amend and reenact §61-8D-3 and §61-8D-4 of the Code of West Virginia, 1931, as amended, all relating to modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury and child abuse or neglect creating risk of injury; providing that a prior conviction under this section subjects a person to increased penalties; defines a prior conviction; and establishing that a judicial officer has discretion to impose a misdemeanor sentence.

Referred to the Committee on the Judiciary.



A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4882**—A Bill to amend and reenact §60-8-3 of the Code of West Virginia, 1931, as amended, relating to unlicensed wineries not currently licensed or located in West Virginia temporarily authorizing limited sampling and temporarily authorizing the limited sale of wine for off-premises consumption at certain fairs and festivals and at certain one-day special licensed nonprofit events in a very limited capacity, per event, per year, in hopes that such wineries would eventually obtain a permanent winery or farm winery license in West Virginia.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4886**—A Bill to amend and reenact §17C-17A-3 of the Code of West Virginia, 1931, as amended, relating to requiring the Public Service Commission and the Division of Highways to submit reports to the Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee and to the Joint Committee on Government and Finance concerning activity on the Coal Resource Transportation Road System.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4887**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to revocation, cancellation, or suspension of business registration certificates; providing procedures therefor; and specifying effective date.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4959**—A Bill to amend and reenact §31-15-5 and §31-15-6 of the Code of West Virginia, 1931, as amended, relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties; clarifying the ability of the Board of Directors to delegate to the Executive Director the authority to enter into said contracts; and to clarify the exemption from the requirements to use the Purchasing Division for contracts made in furtherance of the agency's statutory purpose.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4960**—A Bill to amend and reenact §29-3B-3 of the Code of West Virginia, 1931, as amended, relating to exempting from licensure as an electrician a person who installs low voltage electrical wiring.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4146**, Relating to credit for reinsurance.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael T. Azinger,  
*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 4437**, Relating to the West Virginia Pay Card program.

And,

**Eng. House Bill 4582**, Declaring certain claims against agencies of the state to be moral obligations of the state.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4466**, Certificates of Insurance Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael T. Azinger,  
*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 4513**, Increasing the replacement costs required of a person causing injury or death of game or protected species.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senator Stollings offered the following resolution:

**Senate Concurrent Resolution 50**—Requesting the West Virginia Department of Environmental Protection, the Army Corps of Engineers, and the West Virginia Department of Commerce to research and make recommendations regarding construction of a lake where the headwaters of the Guyandotte and Coal Rivers meet in the areas of Raleigh, Wyoming, Boone, and Logan counties.

Whereas, West Virginia has recently made efforts to revitalize the tourism industry of the state, including outdoor recreational opportunities; and

Whereas, Adding dams to southern West Virginia could aid in preventing devastating floods on the Guyandotte and Coal Rivers in the areas of Raleigh, Wyoming, Boone, and Logan counties; and

Whereas, Hydroelectricity has the potential to power and revitalize the area; and

Whereas, The suitability of construction of such a lake in the aforementioned portion of West Virginia is properly determined through an investigation of all relevant factors such as, but not limited to, site geography, comparative costs for construction, post-mine land use, and the additional economic benefits to the local economy; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the West Virginia Department of Environmental Protection, the Army Corp of Engineers, and the West Virginia Department of Commerce to research and make recommendations regarding construction of a lake where the headwaters of the Guyandotte and Coal Rivers meet in the areas of Raleigh, Wyoming, Boone, and Logan counties; and, be it

*Further Resolved,* That the Legislature hereby requests the departments to submit a written report of its research and findings to the Legislature by December 31, 2020; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Environmental Protection, the Army Corp of Engineers, and the Secretary of the Department of Commerce.

Which, under the rules, lies over one day.

Senators Plymale, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel offered the following resolution:

**Senate Concurrent Resolution 51**—Requesting the Joint Committee on Government and Finance study the feasibility and benefits of amending the Constitution of the State of West Virginia to authorize the Legislature to exempt or reduce one or more species of tangible personal property from taxation.

Whereas, West Virginia needs to regain a competitive edge by invigorating its economy, its workforce, and its citizens; and

Whereas, This can be best accomplished by empowering the population, identifying our state's strengths, building on those strengths, and ensuring the state remains economically competitive moving forward; and

Whereas, These goals may be realized through a tax structure that reduces the personal property tax as a means to encourage the state's citizens and promote business development, recognizing that both of these elements are crucial to economic growth, job creation, and a prosperous state; and

Whereas, There is a growing belief that West Virginia's personal property taxation, as provided for in the West Virginia Constitution, is unwieldy and ill-suited for the state's needs, imposing disproportionate burdens on West Virginia's small businesses, disincentivizing outside investment, and ultimately depressing economic development; and

Whereas, There is a growing belief that West Virginia should move to a simpler and more equitable tax regime, one that transitions state and local governments away from their traditional reliance on personal property taxes; and

Whereas, To balance any reduction in personal property taxes by finding a means to reallocate revenue to ensure growth and prosperity to its citizens, continuing to fund areas affected from personal property tax reductions, and fostering a state that is seen as an attractive option by business and industry; and

Whereas, Some fear that the elimination of the property tax on manufacturing equipment, machinery, and inventory would have a detrimental impact on the state and local budgets, and potentially introduce inconsistency in the property tax system; and

Whereas, There is a concern that any effort to exempt from or reduce property taxes on different types of personal property by eliminating the constitutional requirement that property taxes be

uniform across different types of personal property, will have a significant impact on the citizens of this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the feasibility and benefits of amending the West Virginia Constitution to authorize the Legislature to exempt or reduce one or more species of tangible personal property from taxation; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance is requested to study the feasibility and benefits of authorizing the Legislature to exempt one or more species of tangible personal property from taxation; reduce the rate of taxation or assessment for one or more species of tangible personal property; establish different statewide rates of taxation, statewide rates of assessment, and statewide methods of valuation for different species of tangible personal property; and classify property as real or personal for taxation purposes; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance enlist the assistance of the Tax Commissioner, the West Virginia University Bureau of Business and Economic Research, and the Marshall University Center for Business and Economic Research in conducting the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations from the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Plymale and Woelfel offered the following resolution:

**Senate Concurrent Resolution 52**—Requesting the Division of Highways name bridge number 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV 75 over Twelvepole Creek in Wayne County, the “Haynie Family Veterans Memorial Bridge”.

Whereas, The Haynies have been in the Buffalo Creek area since the early 1800s and served their country in World Wars I and II; and

Whereas, Anthony Haynie, PVT, WW I, was born July 22, 1895, in Wayne County, West Virginia. He enlisted in the U.S. Army on October 5, 1917, and was discharged on June 10, 1919. He served under General Pershing, Battery C 315, Field Artillery, 80 Division. PVT Anthony Haynie’s unit had advanced to the town of Romagne and were engaged with the Germans. Three guns of his battery were knocked out by shell fire and gas attack. The battery commander asked for volunteers to man the guns in spite of the fierce gas attack, and PVT Anthony Haynie answered the call. His record reveals that he was severely wounded in that engagement and that he received the Purple Heart. PVT Anthony Haynie died on January 17, 1976; and

Whereas, Arthur Haynie was born November 17, 1921. He attended the old wooden school in Buffalo, West Virginia. He entered the U.S. Army on December 14, 1942. At discharge, he was a Tech 5 of the military police. He died on September 18, 1995; and

Whereas, James E. Haynie, PVT, WW II, was born on August 16, 1923, in Wayne County. He attended and graduated from Buffalo High School. He served in the U.S. Army from July 8, 1943, through December 7, 1945. PVT James E. Haynie was a demolition expert and served in Calcutta and Burma. His unit merged with Merrill’s Marauders and came behind them, “cleaning up their mess”. He received the Asiatic Pacific Theater Ribbon, WWII Victory Ribbon, and Distinguished Unit Badge with two Bronze Stars. PVT James E. Haynie died September 14, 2014; and



Whereas, Robert V. Haynie, PVT, WW II, was born on March 24, 1925, in Wayne County. He attended Buffalo High School. He served in the U.S. Army from August 28, 1943, through February 14, 1946. PVT Robert V. Haynie was a military policeman serving in the European Theater of Operation. He served in Normandy, Northern France, and the Rhineland. He was a recipient of the Purple Heart, the European African Middle Eastern Theater Ribbon, and the WWII Victory Ribbon. PVT Robert V. Haynie died December 25, 2018; and

Whereas, Charles E. Haynie, WW II, was born on April 14, 1927, in Wayne County. He attended Buffalo High School. He enlisted in the U.S. Navy and served on the USS Sandoval (APA-194) as a coxswain in Iwo Jima. Charles E. Haynie died November 20, 2016; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Haynie family and their 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 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV 75 over Twelvepole Creek in Wayne County, the “Haynie Family Veterans 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 “Haynie Family Veterans 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.

Which, under the rules, lies over one day.

Senators Ihlenfeld and Weld offered the following resolution:

**Senate Resolution 53**—Recognizing Jennifer Schwertfeger for being named the 2020 West Virginia Teacher of the Year.

Whereas, Jennifer Schwertfeger, a true daughter of West Virginia, earned a bachelor of science degree in biology from West Liberty University and a master of arts degree in science education from West Virginia University; and

Whereas, Jennifer Schwertfeger is a 10-year veteran science teacher at Cameron High School where she currently teaches courses including biology, human anatomy, AP biology, and physics for grades 10 through 12; and

Whereas, Jennifer Schwertfeger serves as chairperson of the science department, member of the school’s Green Team, past president of Faculty Senate, and serves her peers as a Marshall County teacher leader, new teacher mentor, and a cooperating teacher for future educators; and

Whereas, Jennifer Schwertfeger believes all students, regardless of academic ability level, background knowledge, or learning challenges deserve equal access to educational experiences, and believes science is a verb – something to do and experience; and

Whereas, Jennifer Schwertfeger promotes the importance for students to recognize their connection to science starting on a personal level and broadening their scope of understanding to their community and world and reminds her students, “Science is you and all around you”; and

Whereas, Highlights of Jennifer Schwertfeger’s projects include promotion of STEM education and career opportunities within West Virginia for young men and women from rural, low-income populations, and exposing students to data collection and analysis to enhance science literacy and mathematical applications within the content; and

Whereas, Jennifer Schwertfeger’s inquiry-based lessons are used to express artistic expression, creativity, experimental design,

and problem solving, prompting her students to vote her a WV Outstanding Honors Teacher; and

Whereas, Jennifer Schwertfeger’s favorite quote, “Always do a little bit more than what is expected of you and someday you will be rewarded greatly for your extra efforts” from her mother, Genevie G. Schehl, are words that Jennifer has always tried to live by and passes them on to each group of students who pass through her classroom doors; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Jennifer Schwertfeger for being named the 2020 West Virginia Teacher of the Year; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to Jennifer Schwertfeger for her dedication and commitment to excellence in education; and, be it

*Further Resolved,* That the Clerk is directed to forward a copy of this resolution to Jennifer Schwertfeger.

Which, under the rules, lies over one day.

Senators Plymale and Woelfel offered the following resolution:

**Senate Resolution 54**—Recognizing the Cabell Midland High School Marching Knights Band for demonstrating excellence in the performing arts.

Whereas, Playing a musical instrument improves math skills and memory skills as well as nurturing self-expression and social skills; and

Whereas, The Cabell Midland High School Marching Knights Band has performed exceptional concerts and marching band shows since its inception in 1994; and

Whereas, The Cabell Midland High School Marching Knights Band has achieved artistic excellence as shown by its concert bands which have received superior ratings for 24-straight years; and

Whereas, The Cabell Midland High School Marching Knights Band won 108 Marching Band Grand Championships, including six Tri-State Marching Band Championships, and eight West Virginia Black Walnut Festival Grand Championships; and

Whereas, The Cabell Midland High School Marching Knights Band has been one of the featured bands for 14 years at the Joyful Night Program at the West Virginia State Capitol; and

Whereas, The Cabell Midland High School Marching Knights Band has performed internationally at the Toronto Music Festival and performed in Canada, the Bahamas, Mexico, and Belize; and

Whereas, The Cabell Midland High School Marching Knights Band are the current and eight-time consecutive State Marching Band Champions; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Cabell Midland High School Marching Knights Band for demonstrating excellence in the performing arts; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the Cabell Midland Marching Knights Band for its contributions to the performing arts in West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Cabell Midland High School Marching Knights Band.

Which, under the rules, lies over one day.

Senators Plymale, Woelfel, and Carmichael (Mr. President) offered the following resolution:

**Senate Resolution 55**—Recognizing the Red Hots and Heatwave Show Choirs for demonstrating excellence in the performing arts.

Whereas, The Red Hots were named the 2019 West Virginia State Champion Show Choir; and

Whereas, The Red Hots are the five-time defending West Virginia Show Choir Champions; and

Whereas, The 2019 championship is the Red Hots 12th State Show Choir Championship; and

Whereas, The Red Hots participated in six grand championships in 2019 across West Virginia, Ohio, and Indiana; and

Whereas, The Red Hots 2019 senior class has earned 22 grand championships in the past four years; and

Whereas, The Red Hots ranked third in the National Show Choir Rankings for 2019; and

Whereas, The Heatwave won their third straight West Virginia State Unisex Show Choir Championship; and

Whereas, The Heatwave earned five division grand championships in 2019; and

Whereas, The Red Hots and Heatwave are exceptional show choirs from Hurricane, West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Red Hots and Heatwave Show Choirs for demonstrating excellence in the performing arts; and, be it

*Further Resolved,* The Senate extends its sincere appreciation and gratitude to the Red Hots and Heatwave Show Choirs for their contributions to the performing arts in West Virginia; and, be it

*Further Resolved,* That the Clerk is directed to forward a copy of this resolution to the Red Hots and Heatwave Show Choirs.

Which, under the rules, lies over one day.

Senators Plymale and Woelfel offered the following resolution:

**Senate Resolution 56**—Recognizing Jason Gibbs of Wayne High School for being named PLTW Biomedical Science Teacher of the Year.

Whereas, Project Lead The Way (PLTW) is a mission-driven organization that is transforming the learning experience for millions of pre-k through 12 students and thousands of teachers across the United States. PLTW empowers students to develop in-demand, transportable knowledge and skills through pathways in computer science, engineering, and biomedical science. PLTW's teacher training and resources support teachers as they engage their students in real-world learning. Approximately 12,200 elementary, middle, and high schools in all 50 states and the District of Columbia offer PLTW programs; and

Whereas, PLTW Outstanding Teachers and PLTW Outstanding Educational Leaders are selected through a competitive nomination and selection process for their focus on empowering students to thrive in this evolving world. They have demonstrated a strong record of the following: Delivering an inspiring and empowering student experience in the classroom, this includes implementing high-quality PLTW programs and inspiring students to apply learning beyond the classroom; expanding access to career learning for students in the school and community; and leading within the classroom, school, or district, using innovative methods to engage students in activity, project, and problem-based learning, and active pursuit of professional and personal development; and

Whereas, Jason Gibbs of Wayne High School in Wayne County was recently recognized by PLTW as the PLTW Biomedical Science Teacher of the Year, which is the highest recognition for PLTW Biomedical Science educators. PLTW president and chief executive officer, Dr. Vince Bertram, presented the award at PLTW's national conference in Indianapolis on February 8, 2020; and

Whereas, The award is based on merit and is a reflection on a teacher's strong alignment to PLTW's mission, exceptional commitment to students, school leadership, and meaningful

involvement in PLTW curriculum, assessment, and professional development; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Jason Gibbs of Wayne High School for being named PLTW Biomedical Science Teacher of the Year.

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to Jason Gibbs for his dedication and commitment to excellence in education; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Jason Gibbs.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale, Woelfel, and Maynard regarding the adoption of Senate Resolution 56 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 10:42 a.m., the Senate recessed to present Senate Resolution 56.

The Senate reconvened at 10:46 a.m. and, at the request of Senator Facemire, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the seventh order of business.

**Senate Resolution 52**, Designating February 26, 2020, as WV Child Care Association Celebrating Children and Families Day.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Tarr, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Tarr, Stollings, and Lindsay regarding the adoption of Senate Resolution 52 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 10:51 a.m., the Senate recessed to present Senate Resolution 52.

The Senate reconvened at 10:56 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 28**, Allowing WV Board of Medicine investigators to carry concealed weapons.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 28) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Com. Sub. for Senate Bill 38**, Requiring schools provide elective course on Hebrew Scriptures or Bible.



On third reading, coming up in regular order, with the right having been granted on Monday, February 24, 2020, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 38 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 38) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 66,** Requiring State Police to follow towing services policies of county of location.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 66) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 119,** Creating online voters' guide.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Com. Sub. for Senate Bill 120,** Establishing priorities for expenditures for plugging abandoned gas or oil wells.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 120) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill 123**, Relating generally to pyramid promotional schemes.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 25, 2020, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Tarr, Roberts, and Maynard, 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 15. PYRAMID PROMOTIONAL SCHEME.**

### **§47-15-1. Definitions.**

~~(a) “Pyramid promotional scheme” shall mean the organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of any members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues or things of material value from other members.~~

~~(b) “Promote” or “promotion” shall mean the initiation, preparation, operation, advertisement, or the recruitment of any person or persons in the furtherance of any pyramid promotional scheme as defined in subsection (a) of this section~~

(a) “Bona fide inventory repurchase program” means a program by which a person repurchases from a salesperson current and marketable inventory in the possession of the salesperson.

upon request and upon commercially reasonable terms, when the salesperson's business relationship with the person is terminated.

(b) "Commercially reasonable terms" means the repurchase of current and marketable inventory within 12 months after the date of purchase at not less than 90 percent of the original net cost, less appropriate set-offs and legal claims, if any.

(c) "Compensation" means a payment of any money, thing of value, or financial benefit conferred in return for inducing another person to participate in a pyramid promotional scheme.

(d) "Consideration" means the payment of cash or the purchase of goods, services, or intangible property. The term does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, or time and effort spent in pursuit of sales or recruiting activities.

(e) "Inventory" includes both goods and services, including company-produced promotional materials, sales aids, and sales kits that a person requires independent salespersons to purchase.

(f) "Inventory loading" means the requirement or encouragement by a plan or operation that its independent salesperson purchase inventory in an amount that exceeds the amount that the salesperson can expect to resell for ultimate consumption or to use or consume in a reasonable time period, or both.

(g) "Promote" means to contrive, prepare, establish, plan, operate, advertise, or otherwise induce or attempt to induce another person to participate in a pyramid promotional scheme.

(h) "Pyramid promotional scheme" means any plan or operation by which a person gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other persons into the plan or operation rather than from the sale and consumption of goods, services, or intangible property by a participant or other persons introduced into the plan or operation. The term includes any plan or operation under which the number of people who may participate is limited

either expressly or by the application of conditions affecting the eligibility of a person to receive compensation under the plan or operation, or any plan or operation under which a person, on giving any consideration, obtains any goods, services, or intangible property in addition to the right to receive compensation.

**§47-15-2. Unlawful act.**

~~No person shall promote any pyramid promotional scheme, either personally or through an agent or agents~~

(a) A person may not establish, promote, or operate any pyramid promotional scheme.

(b) This article may not be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale, if both of the following conditions are satisfied:

(1) The plan or operation does not cause inventory loading; and

(2) The plan or operation implements a bona fide inventory repurchase program.

(c) A person shall clearly describe a bona fide repurchase program in its recruiting literature, sales manual, or contracts with independent salespersons. The recruiting literature, sales manual, or contract must disclose any inventory that is not eligible for repurchase under the program.

(d) A bona fide inventory repurchase program is not required to apply to inventory that:

(1) Is no longer within the inventory's commercially reasonable use or shelf life period; or

(2) Has been used or opened.

(e) A person shall clearly describe to a salesperson, prior to purchase, inventory that is excluded from the entity's bona fide inventory repurchase program as seasonal, discontinued, or special promotion products not subject to the entity's bona fide inventory repurchase program.

**§47-15-5. Criminal penalties.**

Any person who shall violate the provisions of this article by intentionally recruiting or attempting to recruit, or promoting a person to a pyramid promotional scheme, or sales team members for the primary purpose of receiving all or a portion of the sign-up fees, dues or things of material value from newly recruited members where the majority of income potential is from recruitment rather than direct sales of goods or services shall be guilty of a misdemeanor, and shall be fined not less than \$300, nor more than \$1,000, or confined in jail for a period not to exceed six months, or both.

Following discussion,

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill and the pending amendment offered by Senators Tarr, Roberts, and Maynard was deferred until the conclusion of bills on today's third reading calendar.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 160**, Creating Voluntary WVU Rifle Team Check-Off Program on hunting and fishing licenses.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 160) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 193**, Setting forth timeframes for continuing purchases of commodities and services over \$1 million.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 193) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 269**, Establishing advisory council on rare diseases.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 269) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 278**, Providing various methods to deal with defendant who becomes incompetent during trial.

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, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Facemire, Jeffries, Lindsay, and Romano—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 278) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:



**Eng. Senate Bill 278**—A Bill to amend and reenact §27-5-1, §27-5-2, §27-5-3, §27-5-4, and §27-5-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §27-6A-12, all relating to involuntary hospitalization and competency and criminal responsibility of persons charged with or convicted of a crime; updating outdated language in the code; the development of an orientation program for mental hygiene commissioners and magistrates who preside over involuntary hospitalization hearings; establishing criteria and time frames for the involuntary admission to and discharge of individuals from a mental health facility or state hospital; addressing the transportation of persons to a state hospital; relating to competency and criminal responsibility of persons charged with criminal offenses generally; requiring person be committed to least restrictive setting; requiring release when staff physicians determine after three days that individual does not meet criteria for continued commitment; requiring specific finding that inpatient hospital treatment is required; directing the Secretary of the Department of Health and Human Resources in collaboration with representatives of the judiciary, representatives of the prosecuting attorneys, the criminal defense bar and advocates for the disability community to develop legislation to update and modify statutory provisions related to competence and criminal responsibility to ensure protection of constitutional rights and public safety; and requiring that proposed legislation be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 312**, Relating to provisional licensure of social workers.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 312) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 329**, Authorizing DEP promulgate legislative rules.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Senate Bill 355**, Fire Commission rule relating to State Fire Code.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Com. Sub. for Senate Bill 356**, Fire Commission rule relating to State Building Code.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Senate Bill 489**, Moving provisions of licensing contractors to chapter 30 of code.

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 Senate Bill 489 pass?”

The roll being taken, the yeas were: Azinger, Blair, Boley, Clements, Cline, Mann, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—17.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. S. B. 489) rejected on a tie vote.

**Eng. Com. Sub. for Senate Bill 513**, Protecting consumers against businesses using automatic renewals without consent.

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 Senate Bill 513 pass?”

Senators Trump, Tarr, and Azinger, 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.

The Chair replied that any impact on Senators Trump, Tarr, and Azinger would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Tarr—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 513) 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 Com. Sub. for Senate Bill 521**, Relating to job creation and economic incentives.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 521) 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 Com. Sub. for Senate Bill 616**, Relating to employment grievance procedure for public employees.

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, Clements, Cline, Hamilton, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Facemire, Hardesty, Lindsay, Prezioso, Romano, and Stollings—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 616) 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 Com. Sub. for Senate Bill 648**, Providing dental coverage for adult Medicaid recipients.

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 Committee Substitute for Senate Bill 648 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger and Tarr—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 648) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 653**, Increasing number of magistrates in Putnam County.

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 Senate Bill 653 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Ihlenfeld and Palumbo—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 653) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 661**, Replacing minimum minutes of instructional time required per day.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 661) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 661) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 680**, Qualifying not-for-profit private baccalaureate institutions for Advanced Career Education programs and WV Invests Grant Program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 680) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 687**, Increasing compensation of elected county officials.

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 Senate Bill 687 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.



The nays were: Blair, Sypolt, and Tarr—3.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 687) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the respective requests of Senators Stollings and Hardesty, unanimous consent being granted, Senators Stollings and Hardesty addressed the Senate regarding the anniversary of the 1972 Buffalo Creek Disaster.

At the request of Senator Hardesty, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the people who lost their lives during the Buffalo Creek Disaster.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Stollings and Hardesty were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:07 p.m., the Senate recessed for 45 minutes.

The Senate reconvened at 1:04 p.m. and resumed business under the eighth order, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for Senate Bill 690**, Permitting street-legal special purpose vehicles on highways.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 690) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 700**, Exempting physicians from specified traffic laws when responding to emergencies.

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 Senate Bill 700 pass?”

Senators Takubo, Stollings, and Maroney, 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.

The Chair replied that any impact on Senators Takubo, Stollings, and Maroney would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 700) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Thereafter, at the request of Senator Mann, and by unanimous consent, the remarks by Senator Romano regarding the passage of Engrossed Committee Substitute for Senate Bill 700 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill 710**, Establishing pilot program to evaluate telemedicine health services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 710) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 711**, Relating to juvenile jurisdiction of circuit courts.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 711) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 716**, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization.

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 Senate Bill 716 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 716) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 732**, Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 732) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 738**, Creating Flatwater Trail Commission.

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 Senate Bill 738 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 738) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 739**, Authorizing PSC protect consumers of distressed and failing water and wastewater 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 739) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 745**, Creating exemption to state sales and use tax for rental and leasing of equipment.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 745) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 745) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 750**, Establishing extended learning opportunities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 750) passed.

On motion of Senator Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Senate Bill 750**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7d, relating to establishing extended learning opportunities to include alternative educational opportunities for elective course credit; requiring the State Board of Education to promulgate a rule; requiring county boards of education to adopt an extended learning opportunities policy; setting forth what the county board policy is to include; allowing a county board to approve or deny an application for an alternative educational opportunity; and allowing a county board to audit approved alternative educational programs at any time.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.



**Com. Sub. for Senate Bill 752**, Relating generally to medical cannabis.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 25, 2020, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page six, section one, line one hundred two, by striking out all of paragraph (P);

And by relettering the remaining paragraphs;

On page six, section one, line one hundred five, after the word “board” by changing the period to a colon and inserting the following proviso: *Provided*, That the commissioner may approve or disapprove medical conditions based on recommendations of the advisory board.;

And,

On page ten, section two, line twenty-one, after the word “board” by changing the semicolon to a colon and inserting the following proviso: *Provided*, That the commissioner may approve or disapprove forms of medical cannabis for patient use based on recommendations of the advisory board.

Following discussion,

The question being on the adoption of Senator Trump’s amendments to the bill, the same was put and prevailed.

On motion of Senator Ihlenfeld, the following amendments to the bill (Com. Sub. for S. B. 752) were next reported by the Clerk and considered simultaneously:

On page thirty-three, section two, lines one through five, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) *Financial interests.* — The following individuals may not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary, or subsidiary thereof:

(1) A public official, or an immediate family member thereof, whose position involves the direct administration of this chapter, while the individual is a public official and for one year following termination of the individual's status as a public official;

(2) A member of the legislature, or an immediate family member thereof, while the individual is a member of the legislature, and for one year following termination of the individual's status as a member of the legislature;

(3) A member of the county commission or an immediate family member thereof, while the individual is a county commissioner and for one year following termination of the individual's status as a county commissioner; and

(4) A member of the board of public works, or an immediate family member thereof, while the individual is a member of the board of public works, and for one year following termination of the individual's status as a member of the board of public works.;

And,

On page thirty-two, section two, line six, after the word "official" by inserting the words "or an immediate family member thereof,".

Following discussion,

The question being on the adoption of Senator Ihlenfeld's amendments to the bill, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, 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 Ihlenfeld's amendment to the bill rejected.

There being no further amendments offered,

The bill, as just amended by Senator Trump, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 752 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Azinger, Boley, Maynard, and Tarr—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 752) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Azinger, Boley, Maynard, and Tarr—4.

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. 752) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 758**, Relating to authority of Emergency Medical Services Advisory Council.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 758) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 762**, Creating Preserving Patient Stability Act of 2020.

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 Senate Bill 762 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 762) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 765**, Modifying “Habitual Offender” statute.

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 Senate Bill 765 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Baldwin, Beach, Ihlenfeld, and Romano—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 765) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill 765**—A Bill to amend and reenact §61-11-18 and §61-11-19 of the Code of West Virginia, 1931, as amended, all relating to provisions of the Habitual Offender statute; modifying provisions addressing eligibility of certain crimes for consideration; listing offenses which qualify to enhance a sentence; maintaining penalty for persons having two or more prior qualifying offenses; treating crimes arising from the same transaction or series of transactions as one offense; requiring the most recent prior conviction to be less than twenty years old to be counted; and requiring plea agreements to address applicability of habitual offender provisions.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Baldwin, Beach, Ihlenfeld, and Romano—4.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 765) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 785**, Establishing uniform electioneering prohibition area.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—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 S. B. 785) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—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 S. B. 785) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill 797**, Authorizing governing boards of public and private hospitals employ hospital police officers.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 25, 2020, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Takubo, the following amendment to the bill was reported by the Clerk:

On pages three and four, after line fifty-nine by striking out the remainder of the section and inserting in lieu thereof the following:

(h) A hospital police officer shall not be subject to civil or criminal liability unless one of the following applies:

(1) His or her acts or omissions were manifestly outside the scope of employment or official responsibilities;

(2) His or her acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or

(3) Liability is expressly imposed upon the hospital police officer by any other provision of this code.

(i) A hospital police officer shall be trained in crisis de-escalation techniques consistent with the goals and objectives of this section; *Provided*, That within 180 days of beginning work as a hospital police officer, the employing hospital shall provide crisis management training to a hospital police officer through a program approved by the Law Enforcement Professional Standards Subcommittee established by §30-29-2 of this code.

Following discussion,

The question being on the adoption of Senator Takubo's amendment to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.



Engrossed Committee Substitute for Senate Bill 797 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 797) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 802**, Relating to public utilities generally.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 802) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 810**, Implementing federal Affordable Clean Energy rule.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 810) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 820**, Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 820) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 821**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

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 Senate Bill 821 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Hardesty, Jeffries, Lindsay, Romano, and Woelfel—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 821) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill 821**—A Bill to amend and reenact §55-7K-1 of the Code of West Virginia, 1931, as amended, relating to providing immunity from civil liability to facilities and

employees providing drug and alcohol detoxification services, substance use disorder services, drug overdose services on a short-term basis, or crisis stabilization services related to drug and alcohol detoxification services, substance use disorder services, drug overdose services on a short-term basis; establishing an effective date of July 1, 2020, for newly amended sections; and detailing the relationship of this article with laws regulating health care provider insurance requirements.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Hardesty, Jeffries, Lindsay, Romano, and Woelfel—7.

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. 821) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 829**, Establishing Overland Recreation Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—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 S. B. 829) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 830,** Eliminating special merit-based employment system for health care professionals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 830) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 831,** Clarifying Economic Development Authority board enter into contracts necessary to carry out duties.

Having been read a third time on yesterday, Tuesday, February 25, 2020, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Senate Bill 832**, Permitting retailers assume sales or use tax assessed on tangible personal property.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 832) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 832) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 839**, Creating State Advisory Council on Postsecondary Attainment Goals.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Plymale, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motions of Senators Plymale and Rucker, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page one, section eleven, line eighteen, after the word "Education" by inserting the words "as an ex officio nonvoting member";

And,

On page two, section eleven, line nineteen, after the word "Education" by inserting the words "as an ex officio nonvoting member".

Following discussion,

The question being on the adoption of the amendments offered by Senators Plymale and Rucker to the bill, the same was put and prevailed.

The bill, as just amended, was again ordered to engrossment.

Engrossed Senate Bill 839 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 839) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 840**, Creating statutory fee for modifying permits issued by DEP Office of Oil and Gas.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 840) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,



Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 840) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 841**, Requiring Governor to fix salaries of certain appointed officers after office is vacated.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 841) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 841) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

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 Senate Bill 842 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 842) passed.

On motion of Senator Takubo, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Senate Bill 842**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in two county school districts for the duration of five years; setting forth criteria to be used in the selection of the two county school districts; allowing the two county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene an advisory committee consisting of certain school personnel and the education organizations to advise the county superintendent and county board on qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report to the Legislative Oversight Commission on Education Accountability.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 842) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 846**, Requiring hospital publish notification prior to facility closure regarding patient medical records.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 846) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 846) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill 847**, Updating controlled substance lists in Schedules I and V.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 25, 2020, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Rucker, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page five, section two hundred four, line one hundred twenty-two, by striking out the word “7-Hydroxymitragynine”;

And,

On page six, section two hundred four, line one hundred thirty-seven, by striking out the word “Mitragynine.”

Following discussion,

The question being on the adoption of Senator Rucker’s amendments to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill 847 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Takubo—1.

Absent: Blair and Facemire—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 847) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 848**, Clarifying persons charged with DUI may not participate in Military Service Members Court.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Blair and Facemire—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 848) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 849**, Relating to military service as factor in certain insurance coverage rates.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Blair and Facemire—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 849) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Blair and Facemire—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 849) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 850**, Prohibiting racial discrimination based on certain hair textures and hairstyles.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

Senator Plymale arose to a point of order stating that the current discussion pertains to legal matters in general rather than to Engrossed Senate Bill 850.

Which point of order, the President ruled not well taken.

Pending further discussion,

Senator Woelfel arose to a point of order stating that the current discussion does not pertain to Engrossed Senate Bill 850.

Which point of order, the President ruled not well taken.

The question being “Shall Engrossed Senate Bill 850 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger and Tarr—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 850) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 851**, Requiring Governor’s Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards.

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 Senate Bill 851 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.



The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 851) 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 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

On third 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 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

On third 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 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

On third 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 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

On third 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.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for Senate Bill 123**, Relating generally to pyramid promotional schemes.

On third reading, coming up in deferred order, with the amendment offered by Senators Tarr, Roberts, and Maynard to the bill pending, and with the right having been granted on yesterday, February 25, 2020, for amendments to be received on third reading, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules, with the amendment offered by Senators Tarr, Roberts, and Maynard to the bill pending.

The Senate proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Senate Bill 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund.

**Senate Bill 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund.

And,

**Com. Sub. for Senate Bill 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

On motion of Senator Takubo, at 3:32 p.m., the Senate recessed for the purpose of holding a meeting of the Committee on Rules at the rostrum.

The Senate reconvened at 3:45 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Eng. Senate Bill 355**, Fire Commission rule relating to State Fire Code.

Now on third reading, having been referred to the Committee on Rules in earlier proceedings today;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mitch Carmichael,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. S. B. 355) contained in the preceding report from the Committee on Rules was taken up for immediate consideration, read a third time, and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill 355 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 355) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 355) takes effect from passage.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Takubo and Weld.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

**Senate Bill 847:** Senator Beach.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was added as a co-sponsor to the following bill and resolutions:

**Com. Sub. for Senate Bill 810:** Senator Cline;

**Senate Resolution 50:** Senator Weld;

And,

**Senate Resolution 52:** Senators Cline, Lindsay, and Stollings.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 3:51 p.m., the Senate adjourned until tomorrow, Thursday, February 27, 2020, at 11 a.m.

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## THURSDAY, FEBRUARY 27, 2020

The Senate met at 11:22 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Matt Friend, Senior Pastor, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Lydia Jackson, a student at Mountain View Elementary and Middle School in Union, West Virginia, then proceeded in the playing of “Gavotte in G Minor” and “Hallelujah” on the violin.

Wilson Boggess, a student at Peterstown Middle School, Peterstown, West Virginia, next proceeded in the playing of “Folsom Prison Blues” and “Country Roads” on the guitar.

Pending the reading of the Journal of Wednesday, February 26, 2020,

At the request of Senator Swope, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2088**—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing the admission of the use or

nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence and failure to mitigate damages; requiring a causal relationship between the use or nonuse of a safety belt and the alleged injuries or death; providing that evidence of use or nonuse of a safety belt may be admitted in specified circumstances related to a claim involving ejection from the vehicle, a product liability claim, injuries causing death, and, where medical expenses exceed \$50,000; providing disclosure requirements for medical expense evidence; establishing the defenses related to use or nonuse of a safety belt be raised timely, with designated specificity and in accordance with trial rules of procedure; requiring expert testimony in certain circumstances; providing for a hearing related to evidence; and establishing that any finding by the court is limited to the admissibility of evidence.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2478**—A Bill to amend and reenact §47-11A-6 and §47-11A-9 of the Code of West Virginia, 1931, as amended, relating to including “applicable taxes” to the definition of “cost” for retailers; and providing for treble damages, court costs, litigation costs, and attorney fees for filing a suit in bad faith.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2897**—A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to driving restrictions in school zones; specifying that the speed limit restriction for school zones applies during school recess or while children are going to or leaving school during opening or

closing hours or whenever school zone flashing beacons are present and activated.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4159**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §19-2-12 and §19-2-13; to amend and reenact §60-1-5a of said code; to amend and reenact §60-8-2, §60-8-3, §60-8-4, §60-8-18, and §60-8-29 of said code; and to add a new article to said code designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, §60-8A-6, and §60-8A-7; all relating to the manufacture and sale of wine and hard cider; establishing the Agriculture Development Fund; establishing permitted expenditures from the fund; creating a new program to develop hard cider; providing for definitions; clarifying various aspects of wine, specifically the alcohol by volume percentage for table wine, wine, and fortified wine; adding the definition of “nonfortified dessert wine”; clarifying penalties for failure to meet requirements; replacing bond requirements that secure the payment of taxes by distributors, suppliers, certain wineries, and certain farm wineries, who are acting as either suppliers or distributors in a limited capacity, with an affidavit; providing penalties for failure to pay taxes and maintain good standing with the state; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor’s license; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for applicability of other laws; requiring regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption; providing for complementary samples to be given; establishing requirements for complementary samples; permitting the sale of growlers; establishing growler labeling requirements; establishing growler sanitation requirements;



providing for fees for the privilege to sell growlers; and providing for rule-making authority.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4176**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, and §15A-9-7, establishing the West Virginia Fusion Center Act.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4362**—A Bill to amend and reenact §61-2-29 and §61-2-29a of the Code of West Virginia, 1931, as amended, all relating to penalties for neglect, emotional abuse or death caused by a caregiver; setting penalty for emotional abuse of an incapacitated adult; setting penalty for abuse, neglect or emotional abuse of nonverbal special needs child; setting penalty for causing death or allowing another to cause death of a nonverbal special needs child.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4402**—A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to designation of early voting locations; and allowing designations to carry over to subsequent elections under certain circumstances.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4439**—A Bill to amend and reenact §11-13EE-3 of the Code of West Virginia, 1931, as amended, relating to a coal severance tax rebate; clarifying the methodology for determining the eligibility for said rebate; clarifying methods of calculation for the amount of severance tax attributable to the increase in coal production at a mine due to new qualifying capital investments; providing that when the producer of the coal operates more than one mine in this state, or is a member of a controlled or affiliated group that operates one or more coal mines in this state, any rebate allowed is further limited to 80 percent of the state portion of the increase in the aggregate total amount of severance taxes paid in the rebate year when compared to the aggregate total amount of severance taxes paid in the base-year period; but, subject to the individual and aggregate severance tax limitations, a rebate up to the maximum rebate shall only be allowed if the aggregate total coal production tonnage in the rebate year is greater than the aggregate total coal production tonnage during the base-year period from all mines, including the mine where the qualifying investment was made, operated by the taxpayer or by members of the affiliated or controlled group in this state; and no rebate shall be allowed if the aggregate total coal production tonnage in the rebate year is less than the aggregate total coal production tonnage during the base-year period; making technical corrections regarding internal code references; and clarifying that calculations are to be made with totals before the allowance of any tax credits are applied in certain circumstances.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4494**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated as §16-9G-1, §16-9G-2, §16-9G-3 and §16-9G-4, all relating to expanding tobacco use reduction and cessation initiatives; creating a task force to undertake studies and monitor and advise the Division of Tobacco Prevention and recommend policies to the Legislature; authorizing the task force to apply and administer private grants and donations; creating the Tobacco Cessation Initiative Program Special Revenue Account; and directing the annual transfer of a portion of the interest and other return earned that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B to the special revenue account to be expended for the purposes of the new article.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4497**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to requiring the West Virginia Secondary School Activities Commission to require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all extramural high school or middle school athletic events and practices under the control, supervision and regulation of the commission, and that all school sports personnel be trained in the use of the device; requiring that the automated external defibrillator device on the school or event grounds be located as close to the event or practice activity as is possible; requiring that rules be proposed for promulgation by the state board of education; and naming the law The Alex Miller Law.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4524**—A Bill to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6 and §60-5-8 of the Code of West Virginia, 1931, as amended, all relating to making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption; providing a county option to vote to go “dry” or prohibit the sale of alcoholic liquors for off-premises consumption; and permitting an exception.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4535**—A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-8a of said code, all relating to student aide class titles for school service personnel.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4558**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, §11-13FF-5, §11-13FF-6 and §11-13FF-7, all relating generally to creating a personal income tax credit for volunteer firefighters in West Virginia; providing definitions; providing nonrefundable tax credit for a volunteer firefighter against personal income tax in a taxable year; providing for a tax credit limitation of \$1,000 for a single person; providing for a tax credit limitation of \$2,000 for persons filing tax returns jointly under certain conditions; providing that the tax credit for volunteer firefighters must be used in the taxable year and cannot be carried forward;

providing for documentation of eligibility for the tax credit; providing requirements for the documentation evidencing eligibility for the tax credit; providing that documentation must be sent to the Tax Commissioner; providing for rule-making authority; providing for reporting at certain time; and providing an effective date.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4560**—A Bill to amend and reenact §60-8-6b of the Code of West Virginia, 1931, as amended, relating to permitting licensed wine specialty shops to sell wine with a gift basket by telephonic, electronic, or web-based wine ordering.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4573**—A Bill to amend and reenact §9-5-11 of the Code of West Virginia, 1931, as amended, relating to Medicaid subrogation liens of the Department of Health and Human Resources; extending the definition of a liable “third-party” to include certain insurers; establishing notice requirements for claims and civil actions; providing authority for the secretary to negotiate and incentivize Medicaid members to prosecute lawsuits against liable third parties; providing a priority right to the department for subrogation payments; requiring department authorization before finalizing a settlement in certain circumstances; establishing notice, procedure and consent requirements for settlement allocation; setting forth the procedure when the department rejects a settlement allocation; establishing the burden of proof for allocation dispute proceedings; requiring a trial court to consider the department’s interests in maximizing

recovery in an allocation dispute; requiring a trial court to issue findings of fact and conclusions of law; exempting from this section a final subrogation lien of less than \$1,500; modifying the penalty for failure of recipient's legal representative to notify the department to include interest; and establishing an effective date.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4574**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §5B-2J-1, §5B-2J-2, §5B-2J-3, §5B-2J-4, §5B-2J-5, §5B-2J-6, and §5B-2J-7, all relating to establishing a program to facilitate the recovery of areas of the state that have been impacted by the reduction of coal production and consumption; providing legislative findings; establishing a Coal and Timber Transition Office to administer the program; providing for a Coal and Timber Transition Advisory Committee to study and advise the office; defining terms; requiring submission of plans to the Legislature; providing that certain coal operations, timber operations, and electric utilities provide information to the office relating to job losses when a facility is closing; and providing for expiration of the article.

Referred to the Committee on the Workforce; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4587**—A Bill to amend and reenact §24-2-4a of the Code of West Virginia, 1931, as amended; to amend and reenact §24A-2-4 of said code; to amend and reenact §24A-5-2 of said code; to amend said code by adding thereto two new sections, designated §24A-5-2a and §24A-5-2b; all relating to the regulation of the collection, hauling, and disposal of solid waste

by motor carriers; authorizing indexed automatic rate increases for solid waste collection and hauling; authorizing multi-year contracts; setting procedures for the approval of rates; authorizing solid waste carriers to require pooling; and authorizing the Public Service Commission to promulgate rules.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4602**—A Bill to amend and reenact §17C-5-1 of the Code of West Virginia, 1931, as amended, relating to increasing the penalty for negligent operation of a motor vehicle causing death, and providing an additional penalty for negligent operation of a motor vehicle causing death when a child is present in the vehicle at the time of the accident.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4619**—A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §24-2-1o, all to authorize the Public Service Commission to approve plans proposed by electric utilities to install middle-mile broadband fiber and provide expedited cost recovery.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4648**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto four new sections, designated §48-1-239a, §48-1-239b, §48-1-239c,

and §48-1-239d; to amend and reenact §48-9-102, §48-9-201, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-401, §48-9-403, and §48-9-601 of said code; to amend said code by adding thereto a new section, designated §48-9-204a, all relating to “The Parenting Fairness Act of 2020”; defining “shared legal custody”, “shared physical custody”, “sole legal custody”, and “sole physical custody”; establishing the presumption that co-equal shared legal and physical custody of children, and the maintaining of sibling, including half-sibling, relationships through co-equal shared legal and physical custody of children, in cases of divorce is presumed to be in the best interests of the children and families; requiring that temporary parenting plans, parenting plans and modifications to parenting plans consider the presumption of shared legal and physical custody is in the best interests of a child; to require courts to consider such presumption when making determination as to which parent has significant decision making responsibility; and establish both parents’ rights to school and medical records of child.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4665**—A Bill to amend and reenact §12-3-10d of the Code of West Virginia, 1931, as amended, relating to a decrease from 15.5 percent to 10 percent the amount transferred to the Purchasing Improvement Fund; and creating a transfer of five and one half percent to the Entrepreneurship and Innovation Investment Fund from fees generated by the use of the State Purchasing Card Program.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of



**Eng. Com. Sub. for House Bill 4693**—A Bill to amend and reenact §19-1-12 of the Code of West Virginia, 1931, as amended, relating to renaming the Veteran and Warriors to Agriculture Program to the Veterans and Heroes to Agriculture Program; renaming Veterans and Warriors to Agriculture fund; eliminating outdated language; and authorizing the Commissioner of Agriculture to expand the scope of the program to additional classes of persons.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4705**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to certain diseases for which rebuttable presumption of injury arising out of and in the course of employment exists for firefighters, including bladder cancer, mesothelioma, and testicular cancer.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4717**—A Bill to amend and reenact §60A-7-708 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-7-708, all relating to bookkeeping procedures and internal controls for seized or forfeited property under the West Virginia Contraband Forfeiture Act; providing for record keeping and accounting procedures; providing for a report to the State Auditor from law enforcement agencies; requiring the State Auditor establish a public website for reporting information; providing the State Auditor prepare and disseminate a yearly report; establishing that the State Auditor may perform a financial audit; requiring the State Auditor to conduct an audit when seizure

of assets or expenditure of funds from seized assets exceeds a designated amount; permitting the State Auditor to charge a fee; requiring the State Auditor to notify a law enforcement agency for failure to report; providing the State Auditor may promulgate rules; establishing that reported information is subject to the W.Va. Freedom of Information Act; establishing an effective date; and providing that a court may seal records.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4852**—A Bill to amend and reenact §60A-4-401 of the Code of West Virginia, 1931, as amended, relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver, a controlled substance; and, increasing the penalty for methamphetamine.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4892**—A Bill to amend and reenact §11-21-4e of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11B-2-33, all relating to reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold, and further reducing those rates when that threshold is reached again; establishing personal income tax reduction fund and providing for deposits into personal income tax reduction fund; specifying rate reductions; providing for deposits from personal income tax reduction fund into general revenue fund; imposing duties on the State Tax Commissioner and other state agencies officers; and providing for investment and disposition of fund.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4925**—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Secondary Schools Athletic Commission to recognize preparatory athletic programs as nonparticipating members; requiring the preparatory athletic program to pay fees; setting forth parameters of the nonparticipating membership; and allowing for emergency rulemaking.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4929**—A Bill to amend and reenact §44-3A-24 of the Code of West Virginia, 1931, as amended, relating to the administrative closing of stale or unprogressed estates.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4946**—A Bill to amend and reenact §8-14-15 of the Code of West Virginia, 1931, as amended, relating to revising the requirement that municipal police civil service commissions certify a list of up to three individuals for every position vacancy in a municipal police department not filled by promotion, reinstatement or reduction.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2020, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4958**—A Bill to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-3a and §17B-3-3c of said code; to amend and reenact §50-3-2a of said code; and to amend and reenact §62-4-17 of said code, all relating to eliminating the ability of a person's driver's license to be suspended for the failure to pay court fines and costs; allowing court clerks to accept electronic payments, credit cards, cash, money orders, or certified checks; requiring magistrate, municipal, and circuit clerks to set up a payment plan if an individual signs an affidavit stating that he or she is unable to pay the court fines and costs imposed; requiring the Supreme Court of Appeals to generate forms; authorizing magistrate, municipal, and circuit clerks to assess late fees, to record a judgment lien for unpaid fines and costs in the county clerk's office, and to send a debt to collections; and allowing for previously suspended driver's licenses to be reinstated.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4969**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, §11-13FF-5, §11-13FF-6 and §11-13FF-7; all relating to providing a tax credit for the donation or sale of a vehicle to certain charitable organizations; defining terms; providing limitations; providing requirements; providing for applicability of as is provisions; providing rulemaking authority; requiring reporting; and providing effective date.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4971**—A Bill to amend and reenact §16-2D-10 of the Code of West Virginia, 1931, as amended, relating to a closing hospital; exempting a subsequent purchaser from certificate of need; and exempting the health care services provided by the closing hospital from certificate of need; and providing an exemption.

Referred to the Committee on Health and Human Resources.

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 27th day of February, 2020, 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:

**(H. B. 4007)**, Born-Alive Abortion Survivors Protection Act.

And,

**(Com. Sub. for H. B. 4026)**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 150**, Budget Bill.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 150** (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 150) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 2149**, Relating to the Farm-To-Food Bank Tax Credit.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2149) contained in the preceding report from the Committee on Finance was taken up for

immediate consideration, read a first time, and ordered to second reading.

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 4090**, Creating the Oil and Gas Abandoned Well Plugging Fund.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4090) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4760**, Modifying video lottery retailer licensing eligibility requirements.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4760) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Beach and Woelfel offered the following resolution:

**Senate Concurrent Resolution 53**—Requesting the Joint Committee on Government and Finance conduct a study regarding providing free feminine hygiene products to all female students in grades six through 12 in West Virginia public schools.

Whereas, Feminine hygiene products are not easily accessible to many female students and this causes one in five girls in the United States to miss school due to not having access to those products; and

Whereas, Although school nurses have a limited supply of feminine hygiene products, schools do not keep an adequate supply for female students every time they need them; and

Whereas, Feminine hygiene products are, for some students, too expensive, creating a hardship for some female students' families to afford to get them for their children; and

Whereas, In the United States, health care insurance plans do not cover feminine hygiene products; and

Whereas, Adolescents growing up can be self-conscious, so female students go to great efforts to avoid personal embarrassment by taking all of their belongings to the restroom in order to not show other students their tampon or sanitary napkin; and

Whereas, For young teenage girls, it can be challenging adjusting to puberty, and menstruation is uniquely challenging, and school's daily routines can be difficult for younger females to manage as they adjust to this new routine; and



Whereas, Female students are forced to ask their teachers or counselors for permission to go to the nurse's office in order to see if they can get a tampon or sanitary napkin, which causes students to feel disinclined to get them; and

Whereas, Many West Virginia public school teachers feel obligated to spend their own money to keep a supply of feminine hygiene products in their classrooms for female students who may find themselves unprepared, in order to save their female students from embarrassing situations; and

Whereas, The provision of general hygiene products that all students use such as toilet paper, soap, and paper towels reflect that public schools realize that while students are at school it is the school's responsibility to provide them certain assistance; and

Whereas, Grades six through 12 are a crucial time in shaping a child's life, and female students should not have to be anxious about another student knowing they need feminine hygiene products, as it is a very normal monthly occurrence. The benefits to providing female students availability and use of these products is worthy of study; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to conduct a study regarding providing free feminine hygiene products in grades six through 12; and, be it

*Further Resolved,* That the Joint Subcommittee on Government and Finance enlist the Department of Education in conducting the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance and report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid

from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Rucker offered the following resolution:

**Senate Concurrent Resolution 54**—Requesting the Joint Committee on Government and Finance to review West Virginia’s academic standards, in particular English Language Arts and Mathematics standards; to compare how West Virginia’s English Language Arts and Mathematics standards compare with the English Language Arts and Mathematics standards of other states, including Florida; and to make recommendations to the State Board of Education for ensuring that Common Core Standards in West Virginia are eliminated and that the state returns to the basics of reading, writing, and arithmetic.

Whereas, It is in the best interest of all West Virginians to give our children a world-class education that fully prepares them for college and/or a career in the 21st century; and

Whereas, Ensuring that West Virginia’s kindergarten through grade 12 academic standards are the best in the nation will require a review of the standards; and

Whereas, High quality academic standards are the foundation of a high-quality system to which assessments and instructional materials must be aligned; and

Whereas, West Virginia’s education system should ensure that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities; and

Whereas, The State Board of Education in Florida recently adopted the Benchmark for Excellent Student Thinking standards, resulting in Governor Ron DeSantis stating that, “Florida has officially eliminated Common Core”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to review West Virginia's academic standards, in particular English Language Arts and Mathematics standards; to compare how West Virginia's English Language Arts and Mathematics standards compare with the English Language Arts and Mathematics standards of other states, including Florida; to make recommendations to the State Board of Education for ensuring that Common Core Standards in West Virginia are eliminated and that the state returns to the basics of reading, writing, and arithmetic; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance accomplish this review, comparison, and communication of recommendations by: (1) Creating a subcommittee of the Joint Standing Committee on Education to conduct the review and communicate its recommendations to the state board; and (2) requesting the subcommittee to hear from experts and consult with relevant stakeholders, including parents and students; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Unger offered the following resolution:

**Senate Resolution 57**—Designating February 28, 2020, as Honeybee and Beekeeper's Day at the Capitol.

Whereas, *Apis mellifera*, the honeybee, is West Virginia's official state insect; and

Whereas, The honeybee is the insect whose activity produces more benefit to West Virginia's economy than every other insect; and

Whereas, A single worker bee may visit up to 2,000 flowers per day, gathering nectar and pollen, and produces about 1/12 teaspoon of honey during a season; and

Whereas, A colony of honeybees can contain up to 60,000 bees; and

Whereas, An apiary consists of a collection of colonies or beehives maintained to produce honey; and

Whereas, The number of apiaries owned by registered beekeepers in West Virginia is 1,900; and

Whereas, The number of honeybee colonies registered in West Virginia is 15,000; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 28, 2020, as Honeybee and Beekeeper's Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Beekeeper's Association.

Which, under the rules, lies over one day.

Senators Jeffries and Lindsay offered the following resolution:

**Senate Resolution 58**—Congratulating the Herbert Hoover High School softball team for winning the 2019 Class AA State Championship.

Whereas, The Herbert Hoover High School softball team had another distinguished year on the diamond, finishing the season with a record of 35-1, and winning their ITS consecutive Class AA state softball championship; and

Whereas, The Herbert Hoover High School softball team has earned a 68-1 record over the last two seasons under the leadership of head coach, Missy Smith, and assistant coaches, Jamanda Rollyson and Terry Jarrett; and

Whereas, On their way to winning the 2019 state championship, the Herbert Hoover High School softball team won the Cardinal Conference Championship and the sectional and regional championships with a strong team effort including: Outscoring opponents 337-23 for the season and 22-2 in postseason play; a .377 team batting average; a .462 team ERA; a .980 team fielding; 30 shut-out victories; and pitching 414 strikeouts to 50 walks; and

Whereas, The Herbert Hoover High School softball team's roster consists of players: Megan Seafler, Taylor Carpenter, Rebekah Woody, Jessica Canterbury, Aly Miller, Hailey Strawn, Jayce Prowse, Presley McGee, Delani Bucker, Rylee Nottingham, Cortney Fizer, Schyler Greene, Grayson Buckner, Chloe Bates, Caroline Woody, and Emilee Carpenter; and

Whereas, The Herbert Hoover High School softball team displayed its strong will and determination for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Herbert Hoover High School softball team for winning the 2019 Class AA State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Herbert Hoover High School softball team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 50**, Requesting DEP and Commerce Dept. research constructing lake where headwaters of Guyandotte and Coal rivers meet.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question 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.

**Senate Concurrent Resolution 51**, Requesting study amending WV Constitution to authorize Legislature to exempt or reduce tangible personal property from taxation.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Finance.

**Senate Concurrent Resolution 52**, Haynie Family Veterans Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Resolution 53**, Recognizing Jennifer Schwertfeger as 2020 WV Teacher of Year.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Weld, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld and Ihlenfeld regarding the adoption of Senate Resolution 53 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:02 p.m., the Senate recessed to present Senate Resolution 53.

The Senate reconvened at 12:07 p.m. and resumed business under the seventh order.

**Senate Resolution 54**, Recognizing Cabell Midland High School Marching Band.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale and Woelfel regarding the adoption of Senate Resolution 54 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:11 p.m., the Senate recessed to present Senate Resolution 54.

The Senate reconvened at 12:15 p.m. and resumed business under the seventh order.

**Senate Resolution 55**, Recognizing Red Hots and Heatwave Show Choirs.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale and Tarr regarding the adoption of Senate Resolution 55 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:18 p.m., the Senate recessed to present Senate Resolution 55.

The Senate reconvened at 12:24 p.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 124**—Extending the Committee of Conference relating to consideration of **Com. Sub. for House Bill 4275**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

At the request of Senator Trump, 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 the resolution, the same was put and prevailed.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,



Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2338) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

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 is a director of a financial institution.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4411) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4477**, West Virginia Mutual to Mutual Insurance Holding Company 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4477) 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 4477**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-27A-1, §33-27A-2, §33-27A-3, §33-27A-4, §33-27A-5, §33-27A-6, §33-27A-7, §33-27A-8, §33-27A-9, §33-27A-10, §33-27A-11, §33-27A-12, §33-27A-13, and §33-27A-14, all relating to creating the enactment and operation of the West Virginia mutual to mutual insurance holding company act; providing a short title; defining certain terms; establishing a procedure for reorganization of a mutual insurance company into a

stock company; providing voting rights of mutual policy holders regarding reorganization and associated notice of public hearings; requiring review of reorganization plan by the Insurance Commissioner, and establishing procedures therefor; establishing procedures for amendment of articles of incorporation of mutual holding companies; requiring continued corporate existence of reorganized mutual insurance companies; stating responsible party for payment of costs and expenses of reorganization; establishing procedures for reorganization of a mutual insurance company; related to membership in a mutual insurance company; establishing the applicability of other laws to the reorganization and resultant companies; prescribing that the mutual insurance company be treated as an insurer; providing the time in which a reorganization may be challenged; and authorizing the Insurance Commissioner to implement necessary rules.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4477) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4600**, Relating to the definition of the term member regarding distributing premium tax proceeds.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4600) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4661) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Senate Bill 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4959**, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties.

On second reading, coming up in regular order, was read a second time and 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. House Bill 4146**, Relating to credit for reinsurance.

**Eng. House Bill 4437**, Relating to the West Virginia Pay Card program.

**Eng. House Bill 4466**, Certificates of Insurance Act.

**Eng. Com. Sub. for House Bill 4513**, Increasing the replacement costs required of a person causing injury or death of game or protected species.

And,

**Eng. House Bill 4582**, Declaring certain claims against agencies of the state to be moral obligations of the state.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Roberts, Romano, Blair, Facemire, and Smith.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

**Senate Concurrent Resolution 50**: Senators Jeffries and Lindsay;

**Senate Concurrent Resolution 52**: Senators Stollings, Jeffries, and Lindsay;

**Senate Resolution 53**: Senators Stollings, Jeffries, Lindsay, Cline, and Rucker;

**Senate Resolution 54**: Senators Stollings, Jeffries, and Lindsay;

**Senate Resolution 55:** Senators Stollings, Jeffries, and Lindsay;

And,

**Senate Resolution 56:** Senators Stollings, Jeffries, and Lindsay.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:53 p.m., the Senate adjourned until tomorrow, Friday, February 28, 2020, at 11 a.m.

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## FRIDAY, FEBRUARY 28, 2020

The Senate met at 11:26 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by the Reverend Mitchell Bias, Regional Church of God, Delbarton, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Thursday, February 27, 2020,

At the request of Senator Azinger, 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.

Senator Beach offered the following resolution:

**Senate Concurrent Resolution 55**—Requesting the Joint Committee on Government and Finance study the benefits of wage transparency.

Whereas, Employers can require, as a condition of employment, that employees refrain from discussing or sharing information about the amount of their wages, benefits, or other compensation or from inquiring, discussing, or sharing information about any other employee's wages, benefits, or other compensation; and

Whereas, Employers can require employees to sign a waiver or document that denies the employee the right to disclose the amount of his or her wages, benefits, or other compensation or to inquire about, discuss, or share information about any other employee's wages, benefits, or other compensation; and

Whereas, Such practices help perpetuate patterns of wage discrimination; and

Whereas, On February 24, 2020, we lost Katherine Coleman Johnson, West Virginia native and Presidential Medal of Freedom recipient, who suffered the consequences of wage discrimination; and

Whereas, Wage discrimination is still prevalent in our society, with West Virginia having the fifth-largest gender pay gap; and

Whereas, Providing greater transparency about pay rates will also prevent practices that have perpetuated the effects of wage discrimination; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the benefits of wage transparency; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021,



on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

At the request of Senator Weld, unanimous consent being granted, Senator Weld offered the following resolution from the floor:

**Senate Resolution 59**—Designating February 28, 2020, to be Domestic and Sexual Violence Awareness Day in West Virginia.

Whereas, All people have a right to be safe in their home, school, workplace, college campus, and community; and

Whereas, On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men; and

Whereas, One in six women and one in 22 men in West Virginia will be victims of an attempted or completed forcible rape; and

Whereas, During the fiscal year 2017-2018, 14,194 individuals were served by one or more of the 14 licensed domestic violence programs in West Virginia, six of which also provide rape crisis services; and

Whereas, In West Virginia, 4,445 children were served at child advocacy centers as a new client last year, representing one in every 100 children in our state and a 69 percent increase over the last five years; and

Whereas, Last year, 10 rape crisis centers provided 24/7 crisis intervention services in 45 counties experiencing a 159 percent increase in hotline calls answered through state funding, and providing 1,719 prevention programs to nearly 17,000 students and residents; and

Whereas, Forcible rape is the top reason for incarceration in the state adult correctional facilities, costing the taxpayers over \$36 million to incarcerate inmates for sex-related crimes in the Division of Corrections and Rehabilitation's adult prison facilities alone for a single year; and

Whereas, The lifetime economic burden of intimate partner violence among U.S. adults is \$103,767 lifetime cost per female victim and \$23,414 lifetime cost per male victim; and

Whereas, Domestic and sexual violence and child abuse can be deterred, prevented, and reduced through a large network of private, public, and nonprofit entities working together as coalitions providing social, legal, medical, educational, and protective services for victims of domestic and sexual violence and child abuse; and

Whereas, The West Virginia Coalition Against Domestic Violence and the West Virginia Foundation for Rape Information and Services have each been working for 38 years individually and collaboratively to provide safe spaces, quality services, and systemic change, and the West Virginia Child Advocacy Network has been working 10 years to give individuals, children, and families options for building lives free from violence; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 28, 2020, to be Domestic and Sexual Violence Awareness Day in West Virginia; and, be it

*Further Resolved,* That the Senate is committed to treating this problem with the seriousness that it deserves and working to

achieve solutions that deter, prevent, and reduce sexual and domestic violence; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Coalition Against Domestic Violence and the West Virginia Child Advocacy Network.

At the request of Senator Weld, 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 the resolution, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, 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. 59) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld, Hardesty, Trump, Roberts, Ihlenfeld, and Cline regarding the adoption of Senate Resolution 59 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 59.

The Senate reconvened at 11:55 a.m. and, at the request of Senator Takubo, unanimous consent being granted, proceeded to the seventh order of business.

**Senate Concurrent Resolution 53**, Requesting study providing free feminine hygiene products to female students in grades six through 12.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

**Senate Concurrent Resolution 54**, Requesting study on WV academic standards in English and math.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Education; and then to the Committee on Rules.

**Senate Resolution 57**, Designating February 28, 2020, as Honeybee and Beekeeper's Day at Capitol.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senate Resolution 57 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:00 p.m., the Senate recessed to present Senate Resolution 57.

The Senate reconvened at 12:04 p.m. and resumed business under the seventh order.

**Senate Resolution 58**, Congratulating Herbert Hoover High School softball team for winning 2019 Class AA State Championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Jeffries, 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 the resolution, and on this question, Senator Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 58) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Jeffries regarding the adoption of Senate Resolution 58 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:10 p.m., the Senate recessed to present Senate Resolution 58.

The Senate reconvened at 12:13 p.m. and, without objection, 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 586**, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

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 ninety, section seven, line one hundred sixty-two, after the word “chapter;” by striking out the word “and” and inserting in lieu thereof a new subdivision, designated subdivision (32), to read as follows:

“(32) Exempt designated sections within the Division of Natural Resources from the requirement that all payments must be deposited in a bank within 24 hours for amounts less than \$500, notwithstanding any other provision of this code to the contrary: *Provided*, That such designated sections shall make a deposit in any amount no less than every seven working days; and”;

And by renumbering the remaining subdivision;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 586**—A Bill to repeal §15-5-4 and §15-5-27 of the Code of West Virginia 1931, as amended; to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-12, §29-3-12a, §29-3-12b, §29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27, §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §15-1A-3 of said code; to amend and reenact §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-20a, §15-5-24, and §15-5-26 of said code; to amend said code by adding thereto a new section, designated §15-5-29; to amend and reenact §15A-1-2 and §15A-1-3 of said code; to amend said code by adding thereto a new section, designated §15A-1-9; to amend said code by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4,

§15A-9-5, §15A-9-6, and §15A-9-7; to amend said code by adding thereto a new article, designated §15A-10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8, §15A-10-9, §15A-10-10, §15A-10-11, §15A-10-12, §15A-10-13, §15A-10-14, §15A-10-15, §15A-10-16, §15A-10-17, §15A-10-18, §15A-10-19, §15A-10-20, §15A-10-21, §15A-10-22, §15A-10-23, §15A-10-24, and §15A-10-25; to amend said code by adding thereto a new article, designated §15A-11-1, §15A-11-2, §15A-11-3, §15A-11-4, §15A-11-5, §15A-11-6, §15A-11-7, §15A-11-8, §15A-11-9, §15A-11-10, and §15A-11-11; to amend and reenact §19-1-4 of said code; to amend and reenact §19-21A-4 of said code; to amend and reenact §20-1-7 of said code; to amend and reenact §22-1-6 of said code; to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code; to amend said code by adding thereto a new section, designated §29-31-5; and to amend said code by adding thereto a new section, designated §33-2-23, all relating to reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security; clarifying the divisions that report to the cabinet secretary of that Department; removing the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifying the agencies established within the Department of Military Affairs and Public Safety; delineating that the secretary of each state Department cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; requiring that the Adjutant General cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; designating the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants; designating the Division of Homeland Security and Emergency Management as the Division of Emergency Management; making the employees of the Division of Emergency Management classified exempt employees; terminating the West Virginia Disaster Recovery Board; providing that the State Resiliency Officer have the authority to disburse funds from the Disaster Recovery Trust Fund; granting powers necessary to accomplish such disbursement to the State Resiliency Officer; providing for appropriations and other funding sources to the Disaster Recovery Trust Fund; deleting requirements for government entities with deficiently trained floodplain managers to transfer their floodplain oversight to another governmental entity;

amending provisions regarding administration of the Disaster Recovery Trust Fund; providing the State Resiliency Officer need not pay taxes for moneys deposited in the Disaster Recovery Trust Fund or other assets of such Fund; repealing the provision for an annual report of the abolished Disaster Recovery Board; providing the Director of the Division of Emergency Management shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; establishing the powers and duties of the Secretary of the Department of Homeland Security; establishing the Office of Administrative Hearings within the Department of Homeland Security; authorizing the appointment of a Chief Hearing Examiner, establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the office of administrative hearings; establishing hearing procedures; establishing rule-making authority; establishing a duty to provide notice of change of address; establishing policies for the transition from divisions of the Department of Homeland Security to the Office of Administrative Hearings; separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Homeland Security; setting forth the appointment process for the Fire Marshal; setting forth qualifications, salary, and responsibilities of the State Fire Marshal; allowing the Fire Marshal to hire employees; allowing the Fire Marshal to hire a deputy, and setting the qualifications of the deputy; requiring new Fire Marshals 1, 2, 3, and deputies to become certified law-enforcement officers; setting forth powers and duties of the State Fire Marshal; setting forth additional powers and duties relating to law enforcement, statewide contracts, penalties, and authority to carry firearms; creating enforcement standards for the state building and fire codes; creating rule-making authority; allowing the appointment of advisory boards; setting forth the responsibilities of insurance companies in fire loss investigations; allowing the Fire Marshal to set fees; requiring an annual report; setting forth maintenance of fire hazard standards; allowing orders for repair or demolition; allowing orders to contain notice to comply and a right to appeal; providing standards for service of repair or demolition orders; clarifying who is responsible for cost of work or demolition; allowing an action to recover cost; requiring smoke detectors in one- and two- family dwellings; requiring carbon monoxide detectors in residential units, schools, and day care facilities and setting forth penalties; allowing the use of live trees in



public buildings under certain circumstances; setting forth safety standards for bed and breakfast establishments; setting forth standards for installation of propane gas systems; setting forth parameters to abate fire hazards; setting forth license denial, limitation, suspension, and revocation standards; creating an independent informal dispute process for licensees upon appeal; establishing demonstration building and equipment standards for educational instruction for fire protection and prevention and abatement; creating crime of false alarm of fires and setting forth penalties; creating tax on insurance companies; setting forth general criminal penalties for violation; setting forth that the parts of the article are construed liberally; creating a severability section; allowing the Fire Marshal to award service weapons to retiring employees under certain conditions; allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission; setting forth composition, qualifications, appointment, terms of office, removal, vacancies, and compensation and expenses of commission; establishing chairperson, vice chairperson, meeting, and quorum requirements; creating rule-making authority for fire code, building code, and general rule-making authority; continuing the hazardous response training program; requiring public hearing and notice prior to promulgation of fire code; setting forth commission's powers and conduct of public hearing; setting forth commission's powers duties and authority; setting forth authority over volunteer fire department training, and equipment, and creating rule-making authority for such; continuing courtesy certification of firefighters in surrounding states to serve as volunteer firefighters; continuing the Fire Service Equipment and Training Fund; providing the Commissioner of Agriculture shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the State Conservation Committee shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; relating to additional powers, duties, and services of Director of Division of Natural Resources; creating exception to requirement that Division of Natural Resources payments be deposited in bank within 24 hours; providing the Director of the Division of Natural Resources shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Secretary of the Department of Environmental Protection shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that

office in fulfilling its duties; repealing generally now-obsolete provisions relating to the Fire Commission and State Fire Marshal; placing the State Resiliency Office under the Office of the Governor; adding the President of the West Virginia Emergency Management Council, the Secretary of the Department of Homeland Security, Director of the Division of Emergency Management on the State Resiliency Office Board; adding two non-voting member legislators from each house of the Legislature to the State Resiliency Office Board; specifying tenure of office on that board; providing that members of the board serve without compensation, but may collect necessary expenses; providing certain mandatory duties for that Board; providing the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, and setting the duties and qualifications for such officer; providing for the employment of a deputy to the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, upon presentation from a list of names by the State Resiliency Office Board, and, setting the duties and qualifications for such officer; providing that the State Resiliency Officer and his or her deputy must have complimentary work experience; specifying the areas in which the State Resiliency Office Board shall be required to assist the State Resiliency Officer to fulfill the missions of that office, and specifying the areas where that body shall assist the State Resiliency Officer to devise plans and develop procedures; providing for certain exemptions from the Public Meetings Act and Freedom of Information Act for meetings of, and materials presented to the Board; delineating the authority of the State Resiliency Office and the State Resiliency Officer in carrying out their missions; providing the State Resiliency Officer shall report at least quarterly to the Joint Legislative Committee on Flooding; granting the State Resiliency Officer authority to hire employees for the office; providing that such employees are at-will, may participate in state insurance and other programs, and, if entrusted with state funds, shall execute surety bonds; providing that the State Resiliency Officer shall set employee salary rates; creating the state Office of the National Flood Insurance Program in the Office of the Insurance Commissioner; requiring a coordinator to administer such program; providing that state owned property in any non-participating community shall be governed by appropriate rules promulgated by the Insurance Commissioner; requiring the coordinator and floodplain managers to develop a strategic plan to meet goals and

objectives, which plan shall be reviewed by and must be approved by the State Resiliency Officer and State Resiliency Office Board; requiring the coordinator to establish and enforce flood plain management regulations in special hazard areas which are in conformity with Federal laws and regulations; and providing the coordinator of the state office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 586, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 586) 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. Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

**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*

February 24, 2020

**VIA HAND DELIVERY**

The Honorable Roger Hanshaw  
Speaker, West Virginia House of Delegates  
Room 228M, Building 1  
State Capitol Complex  
1900 Kanawha Blvd., East  
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2086

Dear Speaker Hanshaw:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 2086 for technical reasons.

The Act adopts the Uniform Real Property Electronic Recording Act. This new law, among other things, creates a Real Property Electronic Recording Standards Advisory Committee to establish standards and practices to be used by West Virginia County Clerks when electronically recording deeds and other such documents. The introduced bill placed the responsibility to establish this committee with the Commissioner of the Division of Highways. The Senate Judiciary Committee amended the bill to place that responsibility with the Secretary of State. That change created some internal conflicts. A corrective floor amendment was filed electronically, but was not filed with the Senate Clerk's office. Therefore, it was never taken up to correct the internal conflicts. For this reason, I disapprove and return the bill. I urge the Legislature to correct this technical issue, and to return the bill to my desk for signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice  
Governor

cc: The Hon. Mitch Carmichael  
President of the Senate  
The Hon. Mac Warner  
Secretary of State

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

A message from the Clerk of the House of Delegates announced the reconsideration, amendment and passage as amended, of a bill disapproved and returned by the Governor with his objections, and requested the concurrence of the Senate in the passage, of

**Enr. Com. Sub. for House Bill 2086**, Uniform Real Property Electronic Recording Act.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

Senator Takubo then moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate reconsider the bill (Enr. Com. Sub. for H. B. 2086), 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 House Bill 2086, the same was put and prevailed.

Senator Takubo moved that the Senate concur in the following House of Delegates amendment to the bill:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 4. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.**

**§39A-4-1. Short title.**

This article may be cited as the Uniform Real Property Electronic Recording Act.

**§39A-4-2. Definitions.**

For purposes of this article, the following terms shall have the meanings stated below:

- (1) “Document” means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the clerk of the county commission, herein after “county clerk” or “clerk”.

(2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) “Electronic document” means a document that is received by the county clerk in an electronic form.

(4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality or any other legal or commercial entity.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

### **§39A-4-3. Validity of electronic documents.**

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying the requirements of this article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature on a document that complies with the electronic notarization procedure under §39-4-19 of this code and §153 CSR 45.

**§39A-4-4. Recording of documents.**

(a) In this section, “paper document” means a document that is received by the county clerk in a form that is not electronic.

(b) A county clerk:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the Real Property Electronic Recording Standards Advisory Committee pursuant to §39A-4-5 of this code;

(2) May receive, index, store, archive, and transmit electronic documents;

(3) May provide for access to, and search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert information recorded before the clerk began to record electronic documents into electronic form;

(7) May accept electronically any fee or tax relating to electronic recording of real property documents that the clerk is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

**§39A-4-5. Administration and standards.**

(a) For the purpose of keeping the standards and practices of county clerks in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, and to keep the technology used by clerks in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the Secretary of State shall establish the Real Property Electronic Recording Standards Advisory Committee, developed pursuant to this article, to assist in the adoption, amendment, and repeal of standards and practices.

(b) The Secretary of State shall appoint at least 18 persons to serve on the committee. In selecting persons to serve on the committee, the Secretary of State shall appoint:

(1) At least one person who is an attorney who specializes in title work;

(2) At least one person who is a specialist in geographic information system (GIS) mapping;

(3) A representative of the Division of Highways;

(4) A representative of the County Clerks' Association;

(5) A representative of the County Commissioners' Association;

(6) A representative of the State Auditor;



(7) A representative of the Governor's Office of Technology;

(8) A representative of the Division of Culture and History;

(9) A representative of the Community Bankers of West Virginia;

(10) A representative of the West Virginia Bankers' Association;

(11) A representative of the West Virginia Housing Development Fund;

(12) A representative of the Real Estate Division of the Department of Administration;

(13) A representative of the Property Tax Division of the Department of Tax and Revenue;

(14) A representative of the West Virginia Board of Professional Surveyors;

(15) A representative of the West Virginia Real Estate Commission;

(16) At least one representative representing the mineral extraction industry;

(17) A representative of the West Virginia University College of Law with experience in real property law; and

(18) A representative of the Real Estate Lawyers Division of the West Virginia State Bar Association.

(c) In establishing, amending, and repealing standards and practices for the recording of documents in electronic form, storing electronic records, and setting up systems for searching for and retrieving these land records, the committee shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(d) The Secretary of State, or his or her designee, shall serve as chair of the Real Property Electronic Recording Standards Advisory Committee.

(e) The Secretary of State shall:

(1) Provide administrative support to the committee; and

(2) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that contain the standards to implement this article.

(f) Each person, agency, board, and organization on the committee shall cover his or her own expenses necessitated by participation on the committee.

(g) The Secretary of State shall submit a report to the Joint Committee on Government and Finance on or before January 1 of each year until its tasks are complete. The report shall include its efforts to adopt standards in accordance with the requirements of this article and recommendations for further legislative action necessary to effectuate the purposes of this article.

**§39A-4-6. Uniformity of application and construction.**

In applying and construing the Uniform Real Property Electronic Recording Act, consideration must be given to the need

to promote uniformity of the law with respect to its subject matter among states that enact it.

**§39A-4-7. Relation to electronic signatures in global and national commerce act.**

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. §7001, *et seq.*) but does not modify, limit or supersede §101(c) of that act (15 U.S.C. §7001(c)) or authorize electronic delivery of any of the notices described in §103(b) of that act (15 U.S.C. §7003(b)).

Following discussion,

The question being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendment to the bill, the same was put and prevailed.

The question now being on the passage of the bill, disapproved by the Governor and amended by the House of Delegates.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for H. B. 2086) 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.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 3127**—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to the Secondary School Activities Commission and participation by home schooled students in extracurricular activities; setting forth eligibility requirements for home schooled students to participate in extracurricular activities at member schools under certain circumstances; providing that member-to-member transfer protocols apply and providing that reasonable fees may be charged.

At the request of Senator Takubo and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

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, of

**Eng. House Bill 4149**, Relating to insurance.

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 July 1, 2020, of

**Eng. House Bill 4359**, Modifying the filing fees for insurers.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4461**—A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended, relating to requiring the Governor to fix the annual salaries of certain state appointed officers after the office is vacated or after

July 1, 2020, whichever occurs first; and requiring the maximum amount of the annual salary to be specified in the budget bill.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4501**, Relating to the ability to refuse offenders for commitment to a jail.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4804**—A Bill to amend and reenact §18-9A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-3C-3 of said code, all relating to comprehensive systems of support for teacher and leader induction and professional growth; providing for retention of \$100,000 of school aid funds for comprehensive systems of support, each year for five-year period, for use by department of education to assist county boards in design and implementation of teacher leader framework to accomplish teacher induction and growth aspects of comprehensive system; clarifying intent of comprehensive systems of support includes meaningful assistance for beginning teachers and leaders; authorizing state board guidelines for design and implementation of comprehensive systems to include design and implementation of teacher leader framework; clarifying references to appropriations supporting county-level implementation of comprehensive systems of support; removing prohibition on specific level of compensation guarantee to employee service or employment as mentor; authorizing county board adoption of teacher leader framework to accomplish purposes of section for teacher induction and professional growth and apply

appropriations to support county salary supplement if adopted and meeting qualifications specified for teacher duties; requiring department to assist county boards with design and implementation of teacher leader framework; stating goals of framework; authorizing formation of networks of schools or systems or both for design and implementation of frameworks with certain objectives; providing minimum components of teacher leader frameworks adopted by county boards; and requiring report to legislative oversight commission.

Referred to the Committee on Education.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 27, 2020, he had approved **Enr. House Bill 4030**.

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 28th day of February, 2020, 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:

**(H. B. 2922)**, Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids.

**(H. B. 4166)**, Prohibiting certain sex offenders from being in a supervisory position over children.

**(H. B. 4179)**, Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

**(H. B. 4353)**, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making.

(**H. B. 4381**), Relating to lifetime hunting, fishing and trapping licenses for adopted children.

(**Com. Sub. for H. B. 4470**), Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services.

(**H. B. 4476**), Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases.

And,

(**H. B. 4601**), Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 23**, Requesting study of State Police's increased duties and responsibilities.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 23** (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the West Virginia State Police's increased duties and responsibilities, and determine the number of full-time equivalent positions that are needed to meet the statutory mission of statewide enforcement of criminal and traffic laws, with emphasis on providing the necessary enforcement and citizen protection from criminal depredation throughout the state's public streets, roads, and highways.

Whereas, The West Virginia State Police has been protecting the citizens of this state since 1919, investigating crimes and traffic accidents, providing crowd control, directing traffic, and apprehending sexual predators and others who terrorize our neighborhoods, to ensure that we live in peace; and

Whereas, The West Virginia State Police has seen a decrease in manpower since 2001, when more than 700 troopers protected West Virginia, to today, when only 615 troopers are protecting the state; and

Whereas, The West Virginia State Police's duties and responsibilities, including tracking and registering sex offenders, have continued to grow during that same time period. In 2001, the sex offender registry had 1,468 sex offenders within the state, and this has now grown to over 5,639 offenders; and

Whereas, In 2017, there were 833 drug overdose deaths reported in West Virginia involving opioids, making West Virginia's age-adjusted rate of drug overdose deaths involving opioids the highest in the country; and

Whereas, The most recent figures reflect that the West Virginia State Police answered 159,552 calls for service for the citizens of West Virginia in a one-year period; and

Whereas, The Legislature finds that it should take an active role in studying, formulating, and implementing a plan to provide the necessary manpower, equipment, resources, adequate training, policies, and procedures needed for the West Virginia State Police to meet its statutory mission of statewide law enforcement, which will require cooperation with the corresponding agencies or organizations to ensure the accuracy of the information, as well as the feasibility of a concrete proposal; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the West Virginia State Police's increased duties and responsibilities, and determine the number of full-time equivalent positions that are needed to meet the statutory



mission of statewide enforcement of criminal and traffic laws, with emphasis on providing the necessary enforcement and citizen protection from criminal depredation throughout the state's public streets, roads, and highways; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the Legislature, by the first day of the 2021 Regular session, on its findings, conclusions, and recommendations, together with drafts of any legislation 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.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 23) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

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,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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 4009**, Relating to the process for involuntary hospitalization.

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,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

**Eng. House Bill 4480**, Relating to legislative rules for the Higher Education Policy Commission.

And,

**Eng. Com. Sub. for House Bill 4729**, Requiring higher education institutions to use previous versions or editions of instructional materials.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*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 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4478**, Creating a lifetime ban for commercial drivers involved in human trafficking.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*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 4061**, Health Benefit Plan Network Access and Adequacy 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 the Judiciary.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

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 4077**, Increasing the amount of the bond required to be posted by proprietary schools.

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,

Patricia Puertas Rucker,  
*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 Education.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4137**, Allowing counties to store and maintain voter registration records in a digital format.

And,

**Eng. Com. Sub. for House Bill 4352**, Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mark R. Maynard,  
*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. House Bill 4161**, Making it illegal to scleral tattoo a person.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*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 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

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 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 4398**, Relating to required courses of instruction.

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 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 4434**, West Virginia health care workforce sustainability study.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

And has amended same.

**Eng. House Bill 4529**, Relating to the collection of assessments and the priority of liens on property within a resort area.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4544**, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*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 4559**, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

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 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 4576**, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages.

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 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 4620**, Redefining definition of “recovery residence”.

And reports the same back with the recommendation that it 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. House Bill 4647**, Relating to limited video lottery permit holders.

And,

**Eng. House Bill 4955**, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 843) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 843) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund.

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 Senate Bill 844 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 844) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 844) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 845) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 845) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4959**, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4959) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4959) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence in the changed effective date.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 150**, Budget Bill.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 2149**, Relating to the Farm-To-Food Bank Tax Credit.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4090**, Creating the Oil and Gas Abandoned Well Plugging Fund.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page four, section three-a, lines sixty-three through seventy-one, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this code: *Provided*, That if on June 1, 2023, or on June 1 of any year thereafter, there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to zero for the taxable year beginning on and after the next succeeding January 1. The Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant to this subsection.

The bill (Eng. Com. Sub. for H. B. 4090), as amended, was then ordered to third reading.

**Eng. House Bill 4146**, Relating to credit for reinsurance.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 4. GENERAL PROVISIONS.****§33-4-15a. Credit for reinsurance.**

(a) The purpose of this section is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The Legislature hereby declares its intent is to ensure adequate regulation of insurers and reinsurers, and the adequate protection for those to whom they owe obligations. In furtherance of that stated interest, it is hereby mandated that upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state Insurance Commissioner with regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The Legislature further declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§1011-1012.

(b) (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), §33-4-15a(b)(2)(C), §33-4-15a(b)(2)(D), §33-4-15a(b)(2)(E), ~~or §33-4-15a(b)(2)(F), or §33-4-15a(b)(2)(G)~~ of this code; ~~provided further, that:~~ Provided, That the commissioner may adopt by rule pursuant to §33-4-15a(e)(2) of this code additional requirements relating to or setting forth:

(A) The valuation of assets or reserve credits;

(B) The amount and forms of security supporting reinsurance arrangements described in §33-4-15a(e)(2) of this code; and/or

(C) The circumstances pursuant to which credit will be reduced or eliminated.



(2) Credit shall be allowed under §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), or §33-4-15a(b)(2)(C) of this code only with respect to cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under §33-4-15a(b)(2)(C) or §33-4-15a(b)(2)(D) of this code only if the applicable requirements of ~~§33-4-15a(b)(2)(G)~~ §33-4-15a(b)(2)(H) of this code have been satisfied.

(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(B) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. To be eligible for accreditation, a reinsurer must:

(i) File with the commissioner evidence of its submission to this state's jurisdiction;

(ii) Submit to this state's authority to examine its books and records;

(iii) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(v) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is ~~deemed~~ considered to meet this requirement as of the time of its application if it maintains a surplus

as regards policyholders in an amount not less than \$20 million and its accreditation has not been denied by the commissioner within 90 days after submission of its application.

(C)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(I) Maintains a surplus as regards policyholders in an amount not less than \$20 million; and

(II) Submits to the authority of this state to examine its books and records.

(ii) The requirement of §33-4-15a(b)(2)(C)(i)(I) of this code does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(D)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in §33-4-15a(d)(2) of this code, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' Annual Statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination.

(ii)(I) Credit for reinsurance ~~shall~~ may not be granted under this ~~subsection~~ paragraph unless the form of the trust and any amendments to the trust have been approved by the commissioner of the state where the trust is domiciled or the commissioner of

another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(II) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer ~~shall be~~ are subject to examination as determined by the commissioner.

(III) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(iii) The following requirements apply to the following categories of assuming insurer:

(I) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than \$20 million, except as provided in §33-4-15a(b)(2)(D)(iii)(II) of this code.

(II) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and

claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(III)(a) ~~In the case of~~ When there is a group, including incorporated and individual unincorporated underwriters for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group.

(b) ~~In the case of~~ When there is a group, including incorporated and individual unincorporated underwriters for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(c) In addition to the trusts described in §33-4-15a(b)(2)(D)(iii)(III)(a) and §33-4-15a(b)(2)(D)(iii)(III)(b) of this code, the group shall maintain in trust a trusteed surplus of which \$100 million shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(d) The incorporated members of the group ~~shall~~ may not be engaged in any business other than underwriting as a member of the group and ~~shall be~~ are subject to the same level of regulation

and solvency control by the group's domiciliary regulator as are the unincorporated members.

(e) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(IV) ~~In the case of~~ When there is a group of incorporated underwriters under common administration, the group shall:

(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;

(b) Maintain aggregate policyholders' surplus of at least \$10 billion;

(c) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(d) In addition, maintain a joint trusteed surplus of which \$100 million shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(e) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(E) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a

reinsurer in this state and secures its obligations in accordance with the requirements of this paragraph.

(i) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(I) The assuming insurer ~~must~~ shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to §33-4-15a(b)(2)(E)(iii) of this code;

(II) The assuming insurer ~~must~~ shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to a rule ~~promulgated under~~ proposed pursuant to §33-4-15a(e) of this code;

(III) The assuming insurer ~~must~~ shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to a rule ~~promulgated under~~ proposed pursuant to §33-4-15a(e) of this code;

(IV) The assuming insurer ~~must~~ shall agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(V) The assuming insurer ~~must~~ shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(VI) The assuming insurer ~~must~~ shall satisfy any other requirements for certification deemed relevant by the commissioner.

(ii) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of §33-4-15a(b)(2)(E)(i) of this code:

(I) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(II) The incorporated members of the association ~~shall~~ may not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(III) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(iii) The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(I) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction ~~must~~ shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

Additional factors may be considered in the discretion of the commissioner.

(II) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed by rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code.

(III) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(IV) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner ~~has the discretion to~~ may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(iv) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies ~~deemed~~ considered acceptable to the commissioner as developed by rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code. The commissioner shall publish a list of all certified reinsurers and their ratings.

(v) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this ~~subsection~~ paragraph at a level consistent with its rating, as specified in rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code.

(I) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of §33-4-15a(c) of this code, or in a multibeneficiary trust in



accordance with §33-4-15a(b)(2)(D) of this code, except as otherwise provided in this paragraph.

(II) If a certified reinsurer maintains a trust to fully secure its obligations subject to §33-4-15a(b)(2)(D) of this code, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this ~~subsection~~ paragraph or comparable laws of other United States jurisdictions and for its obligations subject to §33-4-15a(b)(2)(D) of this code. It shall be a condition to the grant of certification under this paragraph that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

(III) The minimum trustee surplus requirements provided in §33-4-15a(b)(2)(D) of this code are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this paragraph, except that such trust shall maintain a minimum trustee surplus of \$10 million.

(IV) With respect to obligations incurred by a certified reinsurer under this paragraph, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations ~~will~~ may not be paid in full when due.

(V) For purposes of this paragraph, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations. If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a

reinsurer whose certification has been suspended. As used in this paragraph, the term “terminated” refers to revocation, suspension, voluntary surrender, and inactive status.

(vi) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners’ accredited jurisdiction, the commissioner ~~has the discretion to~~ may defer to that jurisdiction’s certification, and ~~has the discretion to~~ may defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

(vii) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this paragraph, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(F)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this paragraph.

(I) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A “reciprocal jurisdiction” is a jurisdiction that meets one of the following:

(a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, where there is a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this paragraph, a “covered agreement” is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for

entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(b) A United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program; or

(c) A qualified jurisdiction, as determined by the commissioner pursuant to §33-4-15a(b)(2)(E)(iii) of this code, which is not otherwise described in §33-4-15a(b)(2)(F)(i)(I)(a) or §33-4-15a(b)(2)(F)(i)(I)(b) of this code and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified in rules proposed pursuant to §33-4-15a(e) of this code.

(II) The assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rules proposed pursuant to §33-4-15a(e) of this code. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rules proposed pursuant to §33-4-15a(e) of this code.

(III) The assuming insurer shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in rules proposed pursuant to §33-4-15a(e) of this code. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(IV) The assuming insurer shall agree and provide adequate assurance to the commissioner, in a form specified by the commissioner and as set forth in rules proposed pursuant to §33-4-15a(e) of this code, as follows:

(a) The assuming insurer shall provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in §33-4-15a(b)(2)(F)(i)(II) or §33-4-15a(b)(2)(F)(i)(III) of this code, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(b) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision may limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(c) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(d) Each reinsurance agreement shall include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(e) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer

and the commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. The security shall be in a form consistent with the provisions of §33-4-15a(b)(2)(E) and §33-4-15a(c) of this code and as specified by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(V) The assuming insurer or its legal successor shall provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(VI) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(VII) The assuming insurer's supervisory authority shall confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in §33-4-15a(b)(2)(F)(i)(II) and §33-4-15a(b)(2)(F)(i)(III) of this code.

(VIII) Nothing in this subparagraph precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(ii) In addition to the list of reciprocal jurisdictions published through the National Association of Insurance Commissioners' committee process, the commissioner shall timely create and publish a list of reciprocal jurisdictions.

(I) The commissioner's list shall include any reciprocal jurisdiction as defined under §33-4-15a(b)(2)(F)(i)(I)(a) and §33-4-15a(b)(2)(F)(i)(I)(b) of this code and shall consider any other reciprocal jurisdiction included on the National Association of Insurance Commissioners' list. The commissioner may approve a

jurisdiction that does not appear on the National Association of Insurance Commissioners' list of reciprocal jurisdictions in accordance with criteria to be developed by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(II) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code, except that the commissioner may not remove from the list a reciprocal jurisdiction as defined under §33-4-15a(b)(2)(F)(i)(I)(a) and §33-4-15a(b)(2)(F)(i)(I)(b) of this code. Upon removal of a reciprocal jurisdiction from the list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(iii) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this paragraph and to which cessions shall be granted credit in accordance with this paragraph. The commissioner may add an assuming insurer to the list if a National Association of Insurance Commissioners accredited jurisdiction has added the assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under §33-4-15a(b)(2)(F)(i)(IV) of this code and complies with any additional requirements that the commissioner may impose by rules proposed pursuant to §33-4-15a(e) of this code, except to the extent that they conflict with an applicable covered agreement.

(iv) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this paragraph, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this paragraph in accordance with procedures set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(I) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with §33-4-15a(c) of this code.

(II) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of §33-4-15a(c) of this code.

(v) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(vi) Nothing in this paragraph may limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or regulation.

(vii) Credit may be taken under this paragraph only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this paragraph, and only with respect to losses incurred and reserves reported on or after the later of:

(I) The date on which the assuming insurer has met all eligibility requirements pursuant to §33-4-15a(b)(2)(F)(i) of this code; and

(II) The effective date of the new reinsurance agreement, amendment, or renewal.

(a) This subparagraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this paragraph, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

(b) Nothing in this paragraph may authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(c) Nothing in this paragraph may limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

~~(F)~~ (G) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), §33-4-15a(b)(2)(C), §33-4-15a(b)(2)(D), ~~or §33-4-15a(b)(2)(E), or §33-4-15a(b)(2)(F)~~ of this code, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(G)(i)~~ (H)(i) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by §33-4-15a(b)(2)(C) and §33-4-15a(b)(2)(D) of this code ~~shall~~ may not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(I) That in the event of the If there is a failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court ~~in the event of~~ upon an appeal; and

(II) To designate the Secretary of State as its true and lawful attorney upon whom may be served any lawful process in any



action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(ii) This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

~~(H)~~ (I) If the assuming insurer does not meet the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), ~~or §33-4-15a(b)(2)(C),~~ or §33-4-15a(b)(2)(F) of this code, the credit permitted by §33-4-15a(b)(2)(D) or §33-4-15a(b)(2)(E) of this code ~~shall~~ may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(i) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by §33-4-15a(b)(2)(D)(iii) of this code, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(iii) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets, or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(iv) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(J) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(i) The commissioner ~~must~~ shall give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing, unless:

(I) The reinsurer waives its right to hearing;

(II) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under §33-4-15a(b)(2)(E)(vi) of this code; or

(III) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(ii) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with §33-4-15a(c) of this code. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with §33-4-15a(b)(2)(E)(v) or §33-4-15a(c) of this code.

(K) Concentration Risk.

(i) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within 30 days after

reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(ii) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) (1) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of §33-4-15a(b) of this code shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer; *Provided*, That the commissioner may adopt by rule pursuant to §33-4-15a(e)(2) of this code specific additional requirements relating to or setting forth:

(A) The valuation of assets or reserve credits;

(B) The amount and forms of security supporting reinsurance arrangements described in §33-4-15a(e)(2) of this code; and/or

(C) The circumstances pursuant to which credit will be reduced or eliminated.

(2) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the

case of a trust, held in a qualified United States financial institution, as defined in §33-4-15a(d)(2) of this code. This security may be in the form of:

(A) Cash;

(B) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C)(i) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in §33-4-15a(d)(1) of this code, effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(ii) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(D) Any other form of security acceptable to the commissioner.

(d)(1) For purposes of §33-4-15a(c)(2)(C) of this code, a "qualified United States financial institution" means an institution that:

(A) Is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(B) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by either the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(2) A “qualified United States financial institution” means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(A) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(e)(1) The commissioner may, to implement the provisions of this section, ~~promulgate emergency rules and propose legislative rules for adoption by the Legislature pursuant to~~ propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.

(2) The commissioner is ~~further authorized to promulgate rules~~ may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code applicable to reinsurance arrangements as described in §33-4-15a(e)(2)(A) of this code.

(A) A rule adopted pursuant to §33-4-15a(e)(2) of this code may apply only to reinsurance relating to:

(i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) Variable annuities with guaranteed death or living benefits;

(iv) Long-term care insurance policies; or

(v) Such other life and health insurance and annuity products as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance.

(B) A rule adopted pursuant to §33-4-15a(e)(2)(A)(i) or §33-4-15a(e)(2)(A)(ii) of this code, may apply to any treaty containing:

(i) Policies issued on or after January 1, 2015; and/or

(ii) Policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(C) A rule adopted pursuant to §33-4-15a(e)(2) of this code may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules ~~promulgated~~ proposed under this authority, to use the Valuation Manual adopted by the National Association of Insurance Commissioners under Section 11B(1) of the National Association of Insurance Commissioners' Standard Valuation Law, including all amendments adopted by the National Association of Insurance Commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(D) A rule adopted pursuant to this §33-4-15a(e)(2) of this code shall not apply to cessions to an assuming insurer that:

(i) Meets the conditions set forth in Section 2F of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law in this state or, if this state has not adopted provisions substantially equivalent to Section 2F of the National Association

of Insurance Commissioners' Credit for Reinsurance Model Law, the assuming insurer is operating in accordance with provisions substantially equivalent to Section 2F of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law in a minimum of five other states; or

(i) Is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 2E of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law, certified in a minimum of five (5) other states; or

(ii) Maintains at least \$250 million in capital and surplus when determined in accordance with the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual, including all amendments thereto adopted by the National Association of Insurance Commissioners, excluding the impact of any permitted or prescribed practices; and is

(I) Licensed in at least 26 states; or

(II) Licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

(E) The authority to adopt rules pursuant to §33-4-15a(e)(2) of this code does not limit the commissioner's general authority to adopt rules pursuant to §33-4-15a(e)(1) of this code.

(f) This section shall become effective on January 1, 2019, and shall apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 2019. The amendments to this section enacted during the regular session of the Legislature in the year 2020 shall apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 2021.

The bill (Eng. H. B. 4146), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4437**, Relating to the West Virginia Pay Card program.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4466**, Certificates of Insurance Act.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Banking and Insurance, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, line three, after the word “evidence” by inserting the words “or confirmation of the existence”;

On page one, section two, line four, after the word “a” by inserting the words “statement of declaration,”;

On page two, section six, line one, after the word “issued” by inserting the words “in connection with a property or casualty insurance policy issued or renewed on or after July 1, 2020, and”;

On page three, section seven, lines four through six, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) The commissioner may enforce the provisions of this article by any means permissible in this chapter, including by issuing orders to cease and desist. Any person who violates a provision of this article may, after notice and hearing pursuant to §33-2-13 of this code, be fined by the commissioner a sum not to exceed \$1,000 per violation.;



And,

On page three, section seven, line eight, by striking out “§29-3-1” and inserting in lieu thereof “§29A-3-1”.

The bill (Eng. H. B. 4466), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4513**, Increasing the replacement costs required of a person causing injury or death of game or protected species.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4582**, Declaring certain claims against agencies of the state to be moral obligations of the state.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4760**, Modifying video lottery retailer licensing eligibility requirements.

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.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Blair and Stollings.

Pending announcement of meetings of standing and select committees of the Senate,

On motion of Senator Takubo, at 1:05 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:27 p.m. and, without objection, returned to the third order of business.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 28, 2020, he had approved **Enr. Committee Substitute for House Bill 2497** and **Enr. Committee Substitute for House Bill 4058**.

The Senate again 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 27th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(H. B. 4515)**, Relating to wildlife resources, eligibility for license or permit application.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. 209)**, Relating to annexation by minor boundary adjustment.

(**Com. Sub. for S. B. 449**), Authorizing Department of Commerce promulgate legislative rules.

(**Com. Sub. for S. B. 532**), Distributing assets remaining in municipal policemen's or firemen's pension and relief fund on death of last retiree or beneficiary.

(**Com. Sub. for S. B. 544**), Authorizing pharmacists and pharmacy interns administer vaccines.

(**Com. Sub. for S. B. 560**), Permitting nursing home use trained individuals administer medication.

(**S. B. 573**), Supplementing, amending, and increasing appropriations of public moneys for claims against state.

(**S. B. 620**), Authorizing Division of Corrections and Rehabilitation approve home plans for inmates.

(**Com. Sub. for S. B. 623**), Allowing noncitizen of US be eligible for teaching certificate.

(**S. B. 642**), Correcting incorrect code citation in WV Consumer Credit and Protection Act.

And,

(**Com. Sub. for S. B. 657**), Allowing designation of tourism development districts.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 852**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund.

**Senate Bill 853**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

And,

**Eng. House Bill 4969**, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (S. B. 852 and 853 and Eng. H. B. 4969) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 32**, US Marine Corps PFC James R. "Johnny" Corder Memorial Bridge.

**Senate Concurrent Resolution 33**, US Air Force MSGT Dvon Duncan Memorial Bridge.

**Senate Concurrent Resolution 34**, US Army CPL Dane Hampton Hamric Memorial Bridge.

**Senate Concurrent Resolution 35**, Veterans Memorial Drive.

**Senate Concurrent Resolution 36**, Shafer Brothers US Military Veterans Memorial Bridge.

**Senate Concurrent Resolution 39**, US Navy PO1 Jeffrey S. Taylor Memorial Bridge.

And,

**Senate Concurrent Resolution 43**, US Army 1LT Fred Omar Pratt Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 32, 33, 34, 35, 36, 39, and 43) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, 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.

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. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

And has amended same.

**Eng. Com. Sub. for House Bill 4464**, Relating to driving privileges and requirements for persons under the age of 18.

And has amended same.

**Eng. House Bill 4504**, Relating to renewal application requirements for individuals with permanent disabilities.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4522**, Allowing division to accept documents compliant with Real ID Act for proof of identity.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4083, 4464, and 4522, and Eng. H. B. 4504) contained in the preceding report from the Committee on Transportation and Infrastructure were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4365**, Granting of college credit hours for learning English as a second language.

And,

**Eng. Com. Sub. for House Bill 4925**, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. H. B. 4365 and Eng. Com. Sub. for H. B. 4925) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4412**, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4412) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4438**, Relating to the licensing of advance deposit wagering.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4438) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4450**, Relating to instruction permits issued by the Division of Motor Vehicles.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4450) contained in the preceding report from the Committee on Transportation and Infrastructure was



taken up for immediate consideration, read a first time, and ordered to second reading.

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 4519**, Establishing a summer youth intern pilot program within Department of Commerce.

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,

Patricia Puertas Rucker,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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 4790**, Relating to Career Technical Education for middle school students.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4790) contained in the preceding report

from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4882**, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state.

And,

**Eng. House Bill 4929**, Relating to the administrative closing of stale or unprogressed estates.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. H. B. 4882 and 4929) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4887) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the fifth order of business.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

**Senate Concurrent Resolution 56** (originating in the Select Committee on Children and Families)—Requesting the Joint Committee on Children and Families study online privacy protection for children.

Whereas, Children may be exposed to various risks to their privacy through their use of online resources such as Internet websites and mobile applications; and

Whereas, Children under the age of 13 are currently provided certain online privacy protections under federal law pursuant to the Children’s On-Line Privacy Protection Act (COPPA), 15 U.S.C. § 6501 *et seq.*, and the Children’s Online Privacy Protection Rule, 16 C.F.R. Part 312, promulgated thereunder; and

Whereas, A request for public comment on the Federal Trade Commission’s implementation of the Children’s Online Privacy Protection Rule was published in the Federal Register on July 25, 2019; and

Whereas, The public comment period has now ended and numerous comments were submitted; and

Whereas, Other states have passed legislation addressing children's online privacy; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Children and Families is hereby requested to study online privacy protection for children; and, be it

*Further Resolved,* That the Joint Committee on Children and Families report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, prepare a report, and 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.

Respectfully submitted,

Tom Takubo,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 56) contained in the foregoing report from the Select Committee on Children and Families was then referred to the Committee on Rules.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

**Eng. House Bill 4551**, Relating to subsidized adoption.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4773**, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Tom Takubo,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. H. B. 4551 and Eng. Com. Sub. for H. B. 4773) contained in the preceding report from the Select Committee on Children and Families were each taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, at 5:40 p.m., the Senate adjourned until tomorrow, Saturday, February 29, 2020, at 11 a.m.

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## SATURDAY, FEBRUARY 29, 2020

The Senate met at 9:26 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by the Honorable Stephen Baldwin, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Glenn D. Jeffries, a senator from the eighth district.

Pending the reading of the Journal of Friday, February 28, 2020,

At the request of Senator Tarr, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 202**, Allowing one member of PSD board to be county commissioner.

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 240**, Requiring hotels and restaurants secure manhole covers of certain grease traps.

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 section and inserting in lieu thereof the following:

## **ARTICLE 6. HOTELS AND RESTAURANTS.**

### **§16-6-22b. Hotels and restaurants to secure covers of grease traps.**

(a) This section applies to hotels and restaurants that use grease traps that are outdoors or are in areas that are accessible to members of the general public.

(b)(1) Grease traps with manhole covers shall be designed to withstand expected loads and prevent access by children.

(A) The manhole cover shall be secured by a bolt or locking mechanism and be constructed of round cast iron or similar construction with sufficient weight to prevent unauthorized access.

(B) The commissioner may specify either method of limiting access to the manhole, if the method conforms to paragraph (A) of this subdivision and prevents unauthorized access.

(2) A hotel or restaurant shall ensure that a grease trap manhole is closed and secured or locked, if applicable, at all times.

(c) The secretary shall propose emergency rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the implementation and administration of this section.

(d) All hotels and restaurants using grease traps shall comply with subsection (b) of this section no later than October 1, 2020.

### **§16-6-23. Offenses.**

Any person, firm, or corporation ~~who shall operate~~ operating a hotel or a restaurant in this state, or who shall let a building to be used for such purposes, without first having complied with the provisions of this article, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined ~~five dollars~~ \$50 for each day ~~such the~~ failure to comply ~~shall continue~~ continues.

On motion of Senator Takubo, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 240) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 240**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-22b; and to amend and reenact §16-6-23 of said code, all relating to requiring hotels and restaurants to

secure manhole covers of certain grease traps by a certain date; providing methods for securing the manhole covers; authorizing the commissioner to specify the method of limiting access to the manhole; authorizing the promulgation of emergency rules; and increasing the civil penalty for noncompliance with the requirements of the article.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 240, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 240) 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.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 241**, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration.



On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 241**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-9A-7a, relating to requiring State Board of Education to propose revisions to calculation of allowance for service personnel to provide additional positions to meet student transportation needs of certain lower population density districts; and requiring a report to the Legislature.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 241, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 241) 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. Senate Bill 281**, Removing residency requirement for persons applying for reappointment to municipal police dept.

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. Senate Bill 523**, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members.

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 one, section twenty-eight, lines eleven through thirteen, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) On or before October 1, ~~2015, the~~ 2024, all participating employers shall jointly submit a plan to the State Auditor, ~~pursuant to §5-7-5 of this code,~~ as the designated state agency under the Social Security Act, to extend Social Security benefits to members of the retirement system as authorized by §5-7-5 and applicable federal laws. The State Auditor shall assist the participating employers in complying with the requirements for providing extension of Social Security benefits to members of the retirement system.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 523**—A Bill to amend and reenact §8-22A-28 of the Code of West Virginia, 1931, as amended, relating to participation in Social Security by certain municipalities; extending the deadline for opting to extend Social Security coverage; and requiring State Auditor's office to assist municipalities in complying with certain requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 523, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 523) 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 534**, Removing workers' compensation exclusion for temporary legislative employees.

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Senate Bill 552**, Requiring contracts of \$25,000 or more be competitively bid.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 552) 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, 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 571**, Expiring funds from State Excess Lottery Revenue Fund to various accounts.

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 two, item 27, line eighteen, by striking out “2” and inserting in lieu thereof “3”;

On page two, item 27, line nineteen, by striking out the following:

“4 Public Defender Corporations – Surplus .....  
XXXXX 300,000”;

On page two, item 27, line twenty, by striking out “5” and inserting in lieu thereof “6”;

And,

On page two, item 27, line twenty, by striking out “19,492,998” and inserting in lieu thereof “19,792,998”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 571, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 571) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 571) 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 passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Senate Bill 652**, Authorizing School Building Authority promulgate legislative rules.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 652) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

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 703**, Increasing earning limit for employees who accept separation incentive.

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 712**, Correcting name of Forensic Analysis Laboratory.

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 725**, Supplemental appropriation to various Department of Education accounts.

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 778**, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR.

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 779**, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance.

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 780**, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS.

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 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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 one, section sixteen, line twelve after the word "programs," by striking out the word "and";

And,

On page one, section sixteen, line thirteen, after the word "programs" by inserting the words "and if available information on the number of students employed, and the average hours they worked in a relevant field, during such apprenticeship programs".

On motion of Senator Rucker, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 781) was reported by the Clerk:



By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 781**—A Bill to amend and reenact §18B-3C-16 of the Code of West Virginia, 1931, as amended, relating to modifying information required to be included in report to the Legislature and the Governor regarding the collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

Following discussion,

The question being on the adoption of Senator Rucker's amendment to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 781, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 781) 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.

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 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect from passage, of

**Eng. House Bill 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 854** (originating in the Committee on Finance)—A Bill expiring funds to the balance of the Department of Arts, Culture, and History, Division of Culture and History, Public Records and Preservation Revenue Account Fund, fund 3542, fiscal year 2020, organization 0432, in the amount of \$105,000, all from the Auditor's Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 855** (originating in the Committee on Finance)—A Bill expiring funds to the balance of the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund 8402, fiscal year 2020, organization 0804, in the amount of \$750,000, all from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*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 4409**, Relating to transferring remaining funds from the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Boley, Rucker, Cline, Carmichael (Mr. President), Azinger, Baldwin, Beach, Blair, Clements, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel offered the following resolution:

**Senate Resolution 60**—Memorializing the life of Katherine Johnson, West Virginia native, NASA mathematician, and Presidential Medal of Freedom recipient.

Whereas, Katherine Johnson was born August 26, 1918, in White Sulphur Springs, Greenbrier County, West Virginia, the daughter of Joshua and Joylette Coleman; and

Whereas, By the age of 13, Katherine Johnson was attending the high school on the campus of the historically African-American West Virginia State College. At 18, she enrolled in the college itself, where she made quick work of the school's math curriculum and found a mentor in math, professor W. W. Schieffelin Claytor, the third African-American to earn a PhD in Mathematics. She graduated summa cum laude in 1937, with degrees in Mathematics and French, at age 18; and

Whereas, Katherine Johnson was the first African-American woman to attend graduate school at West Virginia University in Morgantown, West Virginia; and

Whereas, In 1953, Katherine Johnson was hired by the National Advisory Committee for Aeronautics, as a mathematician, and continued to work for the organization which became the National Aeronautics and Space Administration (NASA) in 1958; and

Whereas, Katherine Johnson, from 1958 until her retirement in 1986, worked as an aerospace technologist, moving during her career to the Spacecraft Controls Branch; and

Whereas, During her extraordinary career at NASA, Katherine Johnson accomplished many amazing feats, such as: Calculating the trajectory for the May 5, 1961, space flight of Alan Shepard, the first American in space, and the launch window for his 1961 Mercury mission; she plotted back-up navigational charts for

astronauts in case of electronic failures; when NASA used electronic computers for the first time to calculate John Glenn's orbit around Earth, officials called on Katherine Johnson to verify the computer's numbers (John Glenn had asked for her specifically and had refused to fly unless Katherine Johnson verified the calculations); and Katherine Johnson also helped to calculate the trajectory for the 1969 Apollo 11 flight to the moon; and

Whereas, In 1970, Katherine Johnson worked on the Apollo 13 moon mission. When the mission was aborted, her work on back-up procedures and charts helped set a safe path for the crew's return to Earth, creating a one-star observation system that would allow astronauts to determine their location with accuracy; and

Whereas, Katherine Johnson's life served as the basis for a nonfiction book, titled, *Hidden Figures: The American Dream and the Untold Story of the Black Women Mathematicians Who Helped Win the Space Race*, which inspired the award-winning motion picture; and

Whereas, In 2015, cited as a pioneering example of African-American women in STEM, President Barack Obama presented Katherine Johnson with the Presidential Medal of Freedom, the highest civilian award of the United States; and

Whereas, Sadly, Katherine Johnson passed away on February 24, 2020, at the age of 101, leaving behind a grateful state and nation; and

Whereas, It is fitting that the West Virginia Senate honor the life of Katherine Johnson for her career as a pioneer in space science and computing, and for her dedicated public service; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Katherine Johnson, West Virginia native, NASA mathematician, and Presidential Medal of Freedom recipient; and, be it

*Further Resolved*, That the Senate extends its deepest sympathies to the family of Katherine Johnson on her passing; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of Katherine Johnson.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 55**, Requesting study on benefits of wage transparency.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

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 yesterday, Friday, February 28, 2020, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Blair, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page eleven, item 4, line six, by striking out “892,600” and inserting in lieu thereof “1,267,600”;

On page thirty-six, item 47, line thirty one, by striking out “400,000” and inserting in lieu thereof “3,400,000”;

And,

One page fifty, item 63, line eleven, by striking out “98,541,736” and inserting in lieu thereof “108,541,736”.

Following discussion,

The question being on the adoption of Senator Blair’s amendments to the bill, the same was put and prevailed.

On motion of Senator Blair, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page twenty, item 18, lines thirteen and fourteen by striking out the words “and the secretary of Military Affairs and Public Safety”;

On page thirty-six, item 47, line twenty-three, by striking out “Hi-Y”;

On page eighty-eight, item 141, after line eight by inserting the following:

“From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).”;

On page one hundred eighteen, item 222, by striking out lines two through five;

And,

On page one hundred sixty-seven, after item 328 by inserting the following:

*329- Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2021 Org 0603

1	Unclassified .....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy.....	70900		7,200,000

3	Martinsburg Starbase .....	74200	439,622
4	Charleston Starbase .....	74300	424,685
5	Military Authority.....	74800	<u>91,380,274</u>
6	Total.....		\$ 100,427,286

7 The Adjutant General shall have the authority to transfer between appropriations.

*330 - Adjutant General –*

*West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2021 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$ 1,350,000
2	Current Expenses .....	13000	150,000
3	Repairs and Alterations.....	06400	50,000
4	Buildings.....	25800	100,000
5	Land .....	73000	50,000
6	Other Assets.....	69000	100,000
7	Equipment.....	07000	<u>200,000</u>
8	Total.....		\$ 2,000,000;

By renumbering all remaining items;

On page one hundred seventy-two, item 340, line three, by striking out “212,367,820” and inserting in lieu thereof “222,367,820”;

On pages one hundred seventy-seven and one hundred seventy-eight, by striking out items 355 and 356;

And,

By renumbering all remaining items.

On motions of Senators Woelfel, Baldwin, Azinger, Boley, Beach, Blair, Carmichael (Mr. President), Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann,



Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, and Weld, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On page forty-six, item 59, line twenty, by striking out “125,000” and inserting in lieu thereof “250,000”;

And,

On page forty-six, item 59, line twenty-nine, by striking out “75,928,981” and inserting in lieu thereof “76,053,981”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Woelfel, et al., to the bill, the same was put and prevailed.

On motions of Senators Stollings and Takubo, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On pages thirteen and fourteen, item 7, lines one through fifteen, by striking out all of item 7 and inserting in lieu thereof the following:

*7 - Governor’s Office –*

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2021 Org 0100

Milton Flood Wall (R) .....	75701	\$ 12,000,000
Public Health Emergency		
Response Fund.....	XXXXX	\$ 2,000,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund

0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.;

And,

On page fifty, item 63, line five, by striking out "279,564,923" and inserting in lieu thereof "277,564,923".

Following discussion,

The question being on the adoption of the amendments offered by Senators Stollings and Takubo to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 150 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 150 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Tarr—1.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 150) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Tarr—1.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 150) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Lindsay, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

At the request of Senator Blair, and by unanimous consent, Senator Blair addressed the Senate regarding the preparation of an updated budget power point presentation reflecting the amendments adopted in earlier proceedings today for Engrossed Committee Substitute for Senate Bill 150 (*Budget Bill*).

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 2149**, Relating to the Farm-To-Food Bank Tax Credit.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 2149) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4090**, Creating the Oil and Gas Abandoned Well Plugging Fund.

On third 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 4146**, Relating to credit for reinsurance.

On third 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 4437**, Relating to the West Virginia Pay Card program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4437) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4466**, Certificates of Insurance Act.

On third 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. Com. Sub. for House Bill 4513**, Increasing the replacement costs required of a person causing injury or death of game or protected species.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

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. 4513) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4582**, Declaring certain claims against agencies of the state to be moral obligations of the state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4582) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Mann, Maroney, Palumbo, Smith, and Woelfel—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4582) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Senate Bill 852**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 853**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 3127**, Relating to the Secondary School Activities Commission and participation by home schooled students.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

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. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4365**, Granting of college credit hours for learning English as a second language.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4412**, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4438**, Relating to the licensing of advance deposit wagering.



On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 23. HORSE AND DOG RACING.**

### **§19-23-12e. Licensing of advance deposit account wagering.**

(a) As used in this section:

“Account” means an advance deposit wagering (ADW) account owned by an account holder and managed by an ADW licensee that the Racing Commission has determined will maintain a specific identifiable record of account deposits, wagers, credits, debits, and withdrawals, and protect the account holder’s confidential information.

“Account holder” means a resident individual, at least 18 years of age who applies for and successfully opens an account with an ADW licensee.

“Advance deposit account wagering” means a method of pari-mutuel wagering that is permissible under the Interstate Horseracing Act, 15 U.S.C. §3001 *et seq.*, in which an individual may establish an account with a person or entity, licensed by the Racing Commission, to place pari-mutuel wagers on horse or greyhound racing with the ADW licensee via electronic media or by telephone, but not including account wagering conducted through a licensee under §19-23-9(a) of this code, and the Racing Commission’s rules thereunder with respect to wagering conducted pursuant to Racing Commission Rule §178-5-5.

“Advance deposit account wagering licensee” means an entity licensed by the Racing Commission to conduct advance deposit account wagering that accepts deposits and wagers, issues a receipt

or other confirmation to the account holder evidencing the deposits and wagers, and transfers credits and debits to and from an account.

“ADW” means advance deposit account wagering.

“Confidential information” means: (A) The amount of money credited to, debited from, withdrawn from, or present in an account; (B) the amount of money wagered by an account holder on any race or series of races, or the identities of racing associations on which the account holder is wagering or has wagered; (C) the account number and secure personal identification information of an account holder; and (D) unless authorized by the account holder, the name, address, or other information that would identify the account holder to any person or entity other than the Racing Commission or the ADW licensee that manages the account.

“Electronic media” means any electronic communication device or combination of devices, including, but not limited to, personal computers, the Internet, private networks, interactive televisions, and wireless communication technologies or other technologies approved by the Racing Commission.

“Licensee” means any racing association holding a license as defined by §19-23-3 of this code;

“Located” means, in regard to a resident account holder, where his or her principal residence is located.

“Principal residence” means the street address identified by a resident account holder as that individual’s residential address, as the address may be verified by the ADW licensee to the satisfaction of the Racing Commission.

“Resident” is an individual who: (A) Is domiciled in West Virginia; (B) maintains a place of abode and spends at least 183 days within a calendar year in West Virginia; or (C) lists an address in West Virginia as his or her principal residence when opening an account.

“Source market fee” means a fee paid by the ADW licensee which may be mutually agreed upon and set forth in an agreement

between the ADW licensee and each individual racetrack licensed in this state who desires to offer ADW. A fully executed agreement shall be submitted to the Racing Commission. The Racing Commission is prohibited from disclosure of any information in the agreement. The information in the agreement shall remain confidential and shall not form part of any public record and is exempt from disclosure under the provisions of chapter 29B of this code. Such information may be publicly disclosed only for the purposes of an official law enforcement investigation, or when its production is required in a court proceeding. In the absence of such an agreement, if an ADW licensee offers ADW at a racetrack licensed in this state, the source market fee shall be four percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission and distributed as set forth in subsection (b) of this section.

“Total handle” means the total annual dollar sales amount of all pari-mutuel wagering on horse and greyhound races conducted at, or generated from, imports or exports of simulcast horse and greyhound races to or from a licensee, including all moneys from wagering conducted under §19-23-9, §19-23-12a, §19-23-12b, and §19-23-12c of this code, but excluding refunds, cancellations, and advance deposit account wagering under this section.

(b) The source market fee shall be paid by the ADW licensee on a monthly basis to the Racing Commission and distributed as provided in this subsection. The Racing Commission shall prorate all source market fees derived from wagers of account holders between the licensees by dividing each licensee’s total handle by the total handle of all West Virginia licensees in the prior calendar year, and distribute the prorated amounts as follows:

(1) Ten percent of each horse racing licensee’s prorated amount to the West Virginia Thoroughbred Development Fund or 10 percent of each dog racing licensee’s prorated amount to the West Virginia Racing Commission Special Account-West Virginia Greyhound Breeding Development Fund;

(2) Forty-five percent to the purse fund of each prorated licensee; and

(3) Forty-five percent to each prorated licensee.

(c) The advance deposit account wagers placed by account holders with an ADW licensee licensed by the Racing Commission in accordance with this section are authorized, and the provisions of §61-10-1 et seq. of this code relating to gaming do not apply to advance deposit account wagering conducted in accordance with this section.

(d) The Racing Commission is vested with jurisdiction over any person or entity that solicits account holders or offers advance deposit account wagering in West Virginia. Any person or entity that solicits account holders or offers advance deposit account wagering in West Virginia shall be licensed and the Racing Commission may impose a nonrefundable initial and annual renewal licensing application fee not to exceed \$5,000. The Racing Commission may also require any applicant for an initial or renewal ADW license to bear the costs involved in conducting background checks and reviews. If a licensee or an affiliate of a licensee applies for an ADW license under this section, all fees under this subsection shall be deemed paid and an ADW license issued as part of a licensee's annual licensing, or, if the license application is submitted apart from annual licensing, an ADW license shall be issued at the time the application is submitted.

(e) A person or entity may not conduct advance deposit account wagering in West Virginia unless the person or entity has applied for and been granted an ADW license by the Racing Commission. The Racing Commission shall also ensure that, except for advance deposit account wagering authorized under this section, all pari-mutuel wagering on racing is conducted within the confines of a licensee's racetrack or licensed contiguous hotel, as permitted under §19-23-9(a) and §19-23-12a(1) of this code and implementing rules thereunder, including Racing Commission Rule §178-5-5, or within an authorized gaming facility in a historic resort hotel, as permitted under §19-23-12d of this code and implementing rules thereunder.

(f) Any person who is not licensed as an advance deposit account wagering licensee by the Racing Commission who accepts an advance deposit account wager from a resident is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000 or imprisoned in a state correctional facility not more than five years, or both fined and imprisoned. Further, the court shall order any convicted person to pay restitution to recover all amounts that would have been payable to the Racing Commission under this section.

(g) The Racing Commission may seek injunctive relief against any person who is not licensed as an advance deposit account wagering licensee by the Racing Commission who accepts or attempts to accept an advance deposit account wager from a resident. The Racing Commission may also seek recovery of all amounts that would have been payable to the Racing Commission under this section, damages equal to three times the amount of recovery, and reasonable costs and attorney fees. Damages recovered by the Racing Commission shall be distributed as source market fees under this section.

(h) There is hereby assessed a regulatory fee paid by the ADW licensee, which shall be one-half percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission for deposit into the Racing Commission's general administrative account.

(j) There is further assessed an additional fee paid by the ADW licensee, which shall be one and one-half percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission for deposit into a special revenue account in the State Treasury to be known as the "Advance Deposit Wagering Account" to be expended pursuant to appropriation of the Legislature.

(j) Advance deposit account wagers placed by residents are considered to be wagering conducted in this state and subject to the laws of this state and the rules of the Racing Commission.

(k) The Racing Commission shall submit a report by December 31, 2020, and annually thereafter to the Joint Committee on Government and Finance detailing the operation of ADW in this state. The report shall include, but is limited to, the following:

(1) The number of racetracks in this state participating in ADW;

(2) The number of privately negotiated source market fee agreements;

(3) The total amount of funds paid to the Racing Commission pursuant to subsection (h) of this section;

(4) The total amount deposited in the preceding 12-month period in the special revenue account set forth in subsection (i) of this section;

(5) The amounts distributed as set forth in subdivision (b) of this section;

(6) A complete list of ADW licensees offering ADW services in this state;

(7) Beginning with the report due December 31, 2021, a statistical comparison of ADW services to the preceding year; and

(8) The total amount of wagering in this state directly attributable to ADW.

(l) The Racing Commission may propose legislative rules for promulgation, pursuant to §29A-3-1 *et seq.* of this code, to implement this section and may propose emergency rules to provide conditions for the licensing of advance deposit account wagering. Those rules may include, but are not limited to: (1) standards, qualifications, and procedures for the issuance of an advance deposit account wagering license in West Virginia; (2) rules establishing initial and renewal license fees and payment of same to the Racing Commission to cover the costs of licensing ADW licensees; (3) provisions regarding the collection and distribution of those fees; (4) provisions regarding access to books

and records and submission to investigations and audits by the Racing Commission; (5) standards and procedures for opening, maintaining, operating, and securing ADW accounts, as well as protecting confidential information therein; and (6) any other conditions to ensure an orderly process of accepting ADW wagers in acting in the best interests of the West Virginia horse and dog racing industries.

The bill (Eng. Com. Sub. for H. B. 4438), as amended, was then ordered to third reading.

**Eng. House Bill 4450**, Relating to instruction permits issued by the Division of Motor Vehicles.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4461**, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1.

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 and adopted:

On page three, section two-a, line fifty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) The annual salary of each appointive state officer named in this section shall continue in the amount as set forth in this section from the effective date of the amendments to this section enacted in 2020 until the position held by the officer is vacated. After a vacancy occurs and notwithstanding any other provision of this section to the contrary, the annual salary of each appointed state officer named in this section shall be fixed by the Governor within the current budget allocation. The salary of each appointed state officer named in this section shall be listed in the appointment letter for the position.

The bill (Eng. Com. Sub. for H. B. 4461), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4464**, Relating to driving privileges and requirements for persons under the age of 18.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Transportation and Infrastructure, were reported by the Clerk and considered simultaneously:

On page two, section three-a, line thirty-three, after the word “military” by inserting a comma;

And,

On page six, section three-a, lines one hundred twenty-nine and one hundred thirty, by striking out the words “§17B-2-3a(c)(2) §17B-2-3a(d)(1)(A), §17B-2-3a(d)(1)(B), §17B-2-3a(d)(1)(C) or §17B-2-3a(d)(1)(D) of this code” and inserting in lieu thereof the words “§17B-2-3a(d)(2) of this code”.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the Transportation and Infrastructure committee amendments pending.

**Eng. House Bill 4504**, Relating to renewal application requirements for individuals with permanent disabilities.

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. Com. Sub. for House Bill 4522**, Allowing division to accept documents compliant with Real ID Act for proof of identity.



On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.**

**§17B-2-8. Issuance and contents of licenses; fees.**

(a) The division shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license, which shall indicate the type or general class or classes of vehicle or vehicles the licensee may operate in accordance with this chapter or chapter 17E of this code, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full legal name, to be displayed in a manner selected by the applicant when supported by appropriate documentation and consistent with federal law, this code, and existing system capabilities of the division, date of birth, residence address, a brief description and a color photograph of the licensee, and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee is written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

(b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle endorsement. A driver's license which is valid for the operation of a commercial motor vehicle shall be issued in accordance with chapter 17E of this code.

(c) The division shall use such process or processes in the issuance of licenses that will, insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction, forging or modification of, or the superimposition of a photograph on, the license.

(d) The fee for the issuance of a Class E driver's license is \$5 per year for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year. The fee for issuance of a Class D driver's license is \$6.25 per year for each year the license is valid. An additional fee of 50 cents shall be collected from the applicant at the time of original issuance or each renewal, and the additional fee shall be deposited in the Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions of §3-2-12 of this code. The additional fee for adding a motorcycle endorsement to a driver's license is \$1 per year for each year the license is issued.

(e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as established in §17B-1D-7 of this code.

(f) The fee for the issuance of either the level one or level two graduated driver's license as prescribed in §17B-2-3a of this code is \$5.

(g) The fee for issuance of a federally compliant driver's license or identification card for federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established in accordance with §17A-2-21 of this code.

(h) The division may use an address on the face of the license other than the applicant's address of residence if:

(1) The applicant has a physical address or location that is not recognized by the post office for the purpose of receiving mail;

(2) The applicant is enrolled in a state address confidentiality program or the alcohol test and lock program;

(3) The applicant's address is entitled to be suppressed under a state or federal law or suppressed by a court order; or

(4) At the discretion of the commissioner, the applicant's address may be suppressed to provide security for classes of applicants such as law-enforcement officials, protected witnesses, and members of the state and federal judicial systems.

(i) Notwithstanding any provision in this article to the contrary, a valid military identification card with an expiration date issued by the United States Department of Defense for active duty, reserve, or retired military personnel containing a digitized photo and the holder's full legal name may be used to establish current full legal name and legal presence. The commissioner may at his or her discretion expand the use of military identification cards for other uses as permitted under this code or federal rule.

(j) The division may accept any document as proof of identity, residency, and lawful presence that is acceptable under the Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302 (May 11, 2005), 49 U.S.C. §30301 et seq.

The bill (Eng. Com. Sub. for H. B. 4522), as amended, was then ordered to third reading.

**Eng. House Bill 4551**, Relating to subsidized adoption.

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 4760**, Modifying video lottery retailer licensing eligibility requirements.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Sypolt, the following amendment to the bill was reported by the Clerk:

On page two, section one thousand two hundred and two, line seventeen, after the word “section” by changing the period to a colon and inserting the following proviso: *Provided*, That a fraternal organization for which a private club license to dispense alcoholic liquors, under the provisions of §60-7-1 *et seq.* of this code, or a Class A nonintoxicating beer license, under the provisions of §11-16-1 *et seq.* of this code, which was granted prior to January 1, 2001, and which has remained in continuous operation since January 1, 2001, may, for good cause shown, obtain approval to be exempt from subsections (a) and (c) of this section, upon approval of the Commission.

Following discussion,

The question being on the adoption of Senator Sypolt’s amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 4760), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4773**, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

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 4790**, Relating to Career Technical Education for middle school students.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page two, section seven-d, line twenty-three, by striking out the words “home economics” and inserting in lieu thereof the words “family and consumer sciences”.

The bill (Eng. H. B. 4790), as amended, was then ordered to third reading.

**Eng. House Bill 4882**, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

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:

On page two, section five-b, lines twenty-two through thirty, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) If an individual or business entity has not filed any tax return or report for a tax or fee administered under the provisions of §11-10-1 et seq. of this code one year after having been issued a business registration certificate, the Tax Commissioner shall send the individual or business entity a letter by certified mail return receipt requested to the address for which the business registration certificate was issued requesting that the individual or business entity explain why no tax return or report was filed. If the individual or business entity fails to respond to the letter, whether the letter was received, claimed, unclaimed or refused, within 60 days after it was deposited in the United States mail, postage paid,

the Tax Commissioner may begin the process to revoke the individual's or business entity's business registration certificate.

The bill (Eng. H. B. 4887), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4925**, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

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 4929**, Relating to the administrative closing of stale or unprogressed estates.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4969**, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations.

On second reading, coming up in regular order, was read a second time and 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. House Bill 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

**Eng. House Bill 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

**Eng. Com. Sub. for House Bill 4077**, Increasing the amount of the bond required to be posted by proprietary schools.

**Eng. Com. Sub. for House Bill 4137**, Allowing counties to store and maintain voter registration records in a digital format.

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

**Eng. Com. Sub. for House Bill 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

**Eng. Com. Sub. for House Bill 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

**Eng. Com. Sub. for House Bill 4352**, Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making.

**Eng. Com. Sub. for House Bill 4398**, Relating to required courses of instruction.

**Eng. Com. Sub. for House Bill 4434**, West Virginia health care workforce sustainability study.

**Eng. Com. Sub. for House Bill 4478**, Creating a lifetime ban for commercial drivers involved in human trafficking.

**Eng. House Bill 4480**, Relating to legislative rules for the Higher Education Policy Commission.

**Eng. House Bill 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

**Eng. House Bill 4529**, Relating to the collection of assessments and the priority of liens on property within a resort area.

**Eng. Com. Sub. for House Bill 4544**, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

**Eng. House Bill 4559**, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

**Eng. Com. Sub. for House Bill 4576**, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages.

**Eng. Com. Sub. for House Bill 4620**, Redefining definition of “recovery residence”.

**Eng. House Bill 4647**, Relating to limited video lottery permit holders.

**Eng. Com. Sub. for House Bill 4729**, Requiring higher education institutions to use previous versions or editions of instructional materials.

And,

**Eng. House Bill 4955**, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Weld.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 11:09 a.m. today:

**Eng. Com. Sub. for House Bill 4275**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

The Senate proceeded to the thirteenth order of business.



Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

**Senate Joint Resolution 2:** Senator Jeffries;

**Senate Joint Resolution 5:** Senator Jeffries;

**Com. Sub. for Senate Concurrent Resolution 23:** Senators Baldwin, Cline, and Jeffries;

**Senate Concurrent Resolution 24:** Senator Jeffries;

**Senate Concurrent Resolution 32:** Senator Cline;

**Senate Concurrent Resolution 33:** Senator Unger;

**Senate Concurrent Resolution 35:** Senators Jeffries and Unger;

**Senate Concurrent Resolution 36:** Senator Unger;

**Senate Concurrent Resolution 39:** Senator Cline;

**Senate Concurrent Resolution 42:** Senator Unger;

**Senate Concurrent Resolution 43:** Senators Jeffries, Unger, and Cline;

**Senate Concurrent Resolution 44:** Senators Jeffries and Unger;

**Senate Concurrent Resolution 53:** Senators Stollings and Lindsay;

**Senate Concurrent Resolution 54:** Senators Stollings and Cline;

**Senate Concurrent Resolution 55:** Senators Stollings and Hamilton;

**Senate Resolution 57:** Senators Stollings, Hamilton, Jeffries, Cline, Rucker, and Prezioso;

And,

**Senate Resolution 58:** Senators Stollings and Unger.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 11:10 a.m., the Senate adjourned until Monday, March 2, 2020, at 11 a.m.

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## MONDAY, MARCH 2, 2020

The Senate met at 11:22 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Jim Ellis, Calvary Church of the Nazarene, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Saturday, February 29, 2020,

At the request of Senator Hamilton, 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 seventh order of business.

**Senate Resolution 60,** Memorializing life of Katherine Johnson, WV native, NASA mathematician, and Presidential Medal of Freedom recipient.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Boley, 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 the resolution, and on this question, Senator Boley demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 60) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Boley, Cline, Roberts, Stollings, and Baldwin regarding the adoption of Senate Resolution 60 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:38 a.m., the Senate recessed to present Senate Resolution 60.

The Senate reconvened at 11:42 a.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 225**, Empowering municipalities to enact Adopt-A-Street programs.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 307**, Correcting code citation relating to certain tax liens.

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 July 1, 2020, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 529**, Establishing limitations on claims and benefits against state.

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 thirteen-a, lines forty-four through forty-six, by striking out the semicolon and the words “but may be reduced upon clear evidence that the claimant’s conduct contributed to his or her conviction or incarceration”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 529**—A Bill to amend and reenact §14-2-13a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §14-2A-14a, all relating to establishing limitations on claims and benefits; establishing a two-year time limit for a claimant to file a claim for unjust arrest, conviction, or imprisonment; and establishing a 10-year limitation on eligibility to receive benefits under certain conditions.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 529) and requested the House of Delegates to recede therefrom.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

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 Com. Sub. for Senate Bill 554**, Relating to termination, expiration, or cancellation of oil or natural gas leases.

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 nine-b, line thirty-two, by striking out the word “minerals” and inserting in lieu thereof the words “oil and natural gas”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 554, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 554) 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 of

**Eng. Senate Bill 572**, Expiring funds from General Revenue and Lottery Net Profits to various accounts.

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 576**, Relating to management of public records.

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 686**, Exempting contract and common carrier laws for certain vehicles.

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 706**, Clarifying duties of law-enforcement training and certification subcommittee.

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. Senate Bill 727**, Relating to disbursement of funds for highway road repair.

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 seven, section eleven, line one hundred forty-seven, by striking out “\$1” and inserting in lieu thereof “\$1.50”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 727**—A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended, relating to the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund for highway road repair; providing that money from the fund is to be expended within the district where gas field and horizontal drilling waste is deposited; increasing the horizontal drilling waste assessment fee; and updating grammatical style throughout the section.

Senator Takubo moved that the Senate refuse to concur in the foregoing House amendments to the bill (Eng. S. B. 727) and request the House of Delegates to recede therefrom.

Following discussion,

The question being on the adoption of Senator Takubo’s aforestated motion, 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.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 789**, Repealing obsolete sections of WV Code relating to Legislature.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2020, of

**Eng. Senate Bill 816**, Updating North American Industry Classification System code references.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4780**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9a, relating to permitting a school-based decision-making council created pursuant to rules adopted by the State Board of Education to offer students in grade nine or above an elective social studies course on Hebrew Scriptures, Old Testament of the Bible, New Testament of the Bible or Hebrew Scriptures of the Bible; setting forth the purposes of the course; permitting students to use a translation of their choice; requiring the State Board of Education to include course standards in the program of studies for West Virginia schools, including the teacher qualifications and required professional development; and imposing requirements applicable to the course and the State Board of Education.

At the request of Senator Takubo and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 2**—Requesting the Division of Highways name a portion of WV 3, starting at the eastern city limits



of Union and ending at the intersection with CR 11, Keenan Road, in Monroe County, the “Vietnam Veterans Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 6**—Requesting the Division of Highways to name a portion of road locally known as the U. S. 19 By-Pass, at Beckley, in Raleigh County, West Virginia, the “Clarence Watson Meadows Memorial Boulevard”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 10**—Requesting the Division of Highways name bridge number 42-25-21.84 (42SS028), locally known as the Hart Chapel Bridge, carrying County Route 25 over Laurel Fork at the forks of Chenoweth Creek Road and Evans Road near the Hart Chapel Church near Elkins in Randolph County, the “Robert ‘Glen’ Schoonover Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 11**—Requesting the Division of Highways name bridge number 42-39-0.67 (42A092), locally known as Mill Creek Box Beam Bridge, carrying County Route 39 over the Tygart Valley River in Randolph County, the “U. S. Army SGT Robert R. “Bob” Defibaugh Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 15**—Requesting the Division of Highways name bridge number 25-310-10.31 (25A272), locally known as Third Street Bridge, carrying WV 310 over Benoni Avenue and Coal Run in Marion County, the “Rose Agnes Rolls Cousins Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 23**—Requesting the Division of Highways name bridge number 42-48-42.37 NB & SB(42A202, 42A203), (38.95410,-79.85749) locally known as Laurel Mountain Road Bridges, carrying US 48 over CR11 and US 219 in Randolph County, the “U. S. Army SPC Roger Dale Griffith Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 27**—Requesting the Division of Highways name bridge number :25-30-2.44 (25A076) (39.53708, -80.13866), locally known as Woods Run Bridge, carrying County Route 30 over Paw Creek in Marion County, the “U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 28**—Requesting the Division of Highways name Bridge Number 20-114-2.91 (20A824), locally known as Elk Two Mile Bridge, carrying WV 114 over the Elk Two Mile Creek in Kanawha County, near Capital High School, the “U.S.M.C. Cpl Andrew Ryan White Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 30**—Requesting the Division of Highways name bridge number: 34-19-29.10 NB & SB (34A095, 34A096), (38.50057, -80.75533) locally known as Birch River Interchange Bridges, carrying US 19 over Birch River in Nicholas county, the “C. O. ‘Skip’ Johnson Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 40**—Requesting the Division of Highways name bridge number 51-15-8.69 (51A006), (38.57446, -80.45280) locally known as Diana Deck Girder, carrying WV 15 over the Right Fork of Holly River in Webster County, the “The Hall Brothers Veterans Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 41**—Requesting the Division of Highways name bridge number 42-33-8.40, locally known as Gum Lick Run Bridge, carrying US Route 48 over Gum Lick Run in Randolph County, the “U.S.M.C. PFC Dennis Warren Baxter Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 42**—Requesting the Division of Highways name bridge number 42.219/86-001.86 (42A143), locally known as Gilman Bridge, carrying US Route 219 over Leading Creek in Randolph County, the “U.S. Army PFC David Henry Shifflet Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 47**—Requesting the Division of Highways name Sand Plant Road, County Road 15/9, beginning at U.S. 119 and ending at Brounland Road, the “U. S. Army Air Corps SSGT Charles Dexter Duncan Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 51**—Requesting the Division of Highways to name a stretch of road beginning on County Road 15, Cold Stream Road, at Edwards Run (39.32213, -78.42876) to Frog Hollow Road (39.33781, -78.4329) in Hampshire County, “Gunsmiths Trace”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 60**—Requesting the Division of Highways name bridge number 20-77-98.10 (20A420), Lat/Long (38.33497,-81.59610) locally known as I-77 Wertz Avenue OP NB, carrying I-77 over Wertz Avenue in Kanawha County, the “U. S. Army PFC Teddy Ray Chandler Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 63**—Requesting the Division Of Highways name Bridge Number 38-15-0.11 (38a022), locally known as Stoney Creek Channel Beam, carrying County Route 15 over Stoney Creek in Pocahontas County, the “Sharp Military Brothers Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 64**—Requesting the Division of Highways name bridge number: 20-015/02-000.01 () (20A851), (38.33033, -81.69786) locally known as Davis Creek WYE BRIDGE, carrying CR 15/2 over Davis Creek in Kanawha County, the “U. S. Army SP5 Benny Ray Snodgrass Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 66**—Requesting the Division of Highways name bridge number: 20-21-1.39 (20A884) (38.39324, -81.65749), locally known as Kanawha Two Mile Bridge, carrying CR 21 over Kanawha Two Mile Creek in Kanawha County, the “U. S. Army Sgt. Joseph W. McCutcheon Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 67**—Requesting the Division of Highways name bridge number 16-048/00-008.59 (16A143), locally known as US 220 Overpass Bridge, carrying US 48 over US 220 in Hardy County, West Virginia, the “First Lieutenant Fred Omar Pratt Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 68**—Requesting the Division of Highways name bridge number 20-83-8.49 (20A266), locally known as Standard Bridge, carrying County Route 83 Spur over Paint Creek in Kanawha County, the “Kidd Brothers Veterans Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 79**—Requesting the Division of Highways name bridge number 42-021/00-001.50 (42A035), (38.79220, -79.89154) locally known as East Dailey Bridge, carrying CR 21 over Tygart Valley RV. in Randolph County, the “U. S. Army Nurses Corp CPT Nancy Margret Kiess Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 80**—Requesting the Division of Highways name bridge number: 21-017/00-001.57 (21A047), (38.96916, -80.64882), locally known as Copley Bridge, carrying CR 17 over Cove Lick in Lewis County, the “U. S. Army Major Michael Alphonse Rafferty Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 82**—Requesting the Division of Highways name a portion of Buffalo Creek Road, CR7, along the 2.59 miles between WV75 and Rice Branch Road CR14/1 in Wayne County, the “In Memory of Tootsie Hensley, Please keep Buffalo Creek Litter Free”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 83**—Requesting the Division of Highways name bridge number 20-79-9.20 NB and SB, carrying Interstate 79 over Little Sandy near Elkview in Kanawha County, the “U. S. Army SFC Guy R. Hively Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 88**—Requesting the Division of Highways name bridge number: 51-26/1-0.02 (51A051), (38.48655, -80.29984) locally known as Bergoo Box Beam, carrying CR 26/1 over Leatherwood Creek in Webster County, the “Johnnie Bryant Moore Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution 90**—Requesting the Division of Highways name bridge number NHPP-0035(202) (11350), carrying U.S. Route 35 over County Route 29 and Little Sixteen Mile Creek in Mason County, the “Wood Brothers Veterans Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 91**—Requesting the Division of Highways to name a portion of Patterson Creek Road on County Route 11, from the intersection of U. S. 50 to Shirley Lane at County Route 50/4, Burlington, in Mineral County, the “Caldwell Brothers Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 92**—Requesting the Division of Highways name bridge number 13-036/00-000.09 (13A083), locally known as Howards Creek Bridge, carrying County Route 36 over Howards Creek in Greenbrier County, the “Mayor Abraham E. Huddleston Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of



**House Concurrent Resolution 99**—Requesting the Division of Highways name bridge number (42A245), Randolph County, County Route 219/86 Bridge Milepost 42-219/86-005.18, Original Name Lazy Run Bridge, Featured Intersection Lazy Run, (39.01193, -79.81308), carrying CR WV Route 219/86 over Lazy Run in Randolph County, the “U. S. Army CPL Russell Allen Taylor Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 103**—Requesting the Division of Highways name bridge number 29-046/00-029.27 (29A040), (39.44324, -78.83744) locally known as Patterson Creek Bridge, carrying WV 46 over Patterson Creek in Mineral County, the “French & Indian War Veterans Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 105**—Requesting the Division of Highways name bridge number 20-079/00-005.56 (NB) (20A500), (38.41964, -81.54456), locally known as I-79 Coopers Creek Overpass NB-SB, carrying I-79 over CR 41 in Kanawha County, the “U. S. Air Force Colonel Rishel C. Walker Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 122**—Requesting the Division of Highways to name a two-mile portion of U.S. Route 460 between

its intersection with Bland Rd., otherwise known as WV Route 598, and its intersection with U.S. Route 52 in Mercer County, the “Eustice Frederick Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 856** (originating in the Committee on Finance)—A Bill expiring funds to the balance of the Department of Commerce, West Virginia Development Office, Marketing and Communications Operating Fund, fund 3002, fiscal year 2020, organization 0307, in the amount of \$222,563, from the Department of Commerce, West Virginia Development Office, Synthetic Fuel – Producing County Fund, fund 3165, fiscal year 2020, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 856) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 2892**, Including digital and virtual information in the definition of property that can be searched and seized by a warrant.

And has amended same.

**Eng. Com. Sub. for House Bill 4593**, Authorizing the assignment of poll workers to serve more than one precinct under certain circumstances.

And has amended same.

**Eng. Com. Sub. for House Bill 4594**, Allowing poll workers to be appointed to work in precincts outside their county.

And has amended same.

And,

**Eng. House Bill 4664**, Clarifying the offense of driving under the influence of alcohol, controlled substances, or drugs.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2892, 4593, and 4594, and Eng. H. B. 4664) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4001**, Creating West Virginia Impact Fund.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4439**, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. Com. Sub. for House Bill 4019**, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

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,

Chandler Swope,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4019) contained in the preceding report from the Committee on Economic Development

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.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4099**, Eliminating the permit for shampoo assistants.

**Eng. House Bill 4396**, Relating to reporting suspected governmental fraud.

**Eng. House Bill 4417**, Relating to permitting professional boards.

**Eng. House Bill 4714**, Increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization.

**Eng. Com. Sub. for House Bill 4803**, Relating to certification of electrical inspectors.

**Eng. House Bill 4859**, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments.

And,

**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4099 and 4803, and Eng. H. B. 4396, 4417, 4714, 4859, and 4960) contained in the preceding report from the Committee on Government Organization were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4113**, Relating to motor fuel excise taxes.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4113) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4165**, West Virginia Remembers Program.

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 Education.

Respectfully submitted,

Ryan W. Weld,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4165) 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 Education.

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Eng. Com. Sub. for House Bill 4363**, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

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 T. Azinger,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4363) contained in the preceding report from the Committee on Pensions 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 Pensions pending.

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 4378**, Relating to disciplining teachers.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4414**, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4378 and 4414) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. Com. Sub. for House Bill 4421**, Natural Gas Liquids Economic Development Act.

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,

Chandler Swope,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4421) contained in the preceding report from the Committee on Economic Development 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.

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 4519**, Establishing a summer youth intern pilot program within Department of Commerce.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4519) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4546**, Relating to tuberculosis testing for school superintendents.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4546) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4589) contained in the preceding report from the Committee on Military was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. Com. Sub. for House Bill 4621**, West Virginia FinTech Regulatory Sandbox Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Chandler Swope,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4621) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4633**, Expanding county commissions' ability to dispose of county or district property.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4633) contained in the preceding report from the Committee on Government Organization

was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4645**, Establishing the Office of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance.

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,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4645) contained in the preceding report from the Committee on Government Organization 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 an amendment from the Committee on Government Organization pending.

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 4655**, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4655) contained in the preceding report from the Committee on Military was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4666**, Relating to competitive bids for intergovernmental relations and urban mass transportation.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4666) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4691**, Relating to employment in areas of critical need in public education.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4691) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. House Bill 4865**, Requiring certain boards that seek to increase a fee or seek to impose a new fee to also submit cost saving measures.

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. H. B. 4865) contained in the preceding report from the Committee on Government Organization 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.

The Senate proceeded to the fifth order of business.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

**Eng. Com. Sub. for House Bill 4094**, Continuing the Foster Care Ombudsman.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4415**, Relating to missing and endangered children.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Tom Takubo,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, Engrossed Committee Substitute for House Bill 4094 contained in the preceding report from the Select Committee on Children and Families 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 an amendment from the Select Committee on Children and Families pending.

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 Engrossed Committee Substitute for House Bill 4415 contained in the foregoing report from the Select Committee on Children and Families.

At the request of Senator Takubo, and by unanimous consent, Engrossed Committee Substitute for House Bill 4415 was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Unger and Rucker offered the following resolution:

**Senate Resolution 61**—Recognizing Leadership Jefferson for its service, dedication, and commitment to Jefferson County.

Whereas, The objective of Leadership Jefferson is to promote knowledge and awareness of the problems, opportunities, and issues facing Jefferson County; and

Whereas, Leadership Jefferson is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants to encourage local participation in the growth of Jefferson County; and

Whereas, The membership of Leadership Jefferson includes individuals from nearly every facet of Jefferson County's business, professional, religious, governmental, educational, civic, the arts, organized labor, and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2020 membership of Leadership Jefferson consists of: Trina Agee, American Public University; Laura Bowman, Summit Point Raceway/BSR Inc.; Paul Espinosa, Rockwool; Natasha Fogle, Kable Team Realty; Raymond Goodrich, Bank of Charles Town; Anthony Grant, City of Ranson; Fiona Harrison, Farmers Market; Daryl Hennessy, City of Charles Town; Cornelia Hockman, The Barn at York Hill; Steven Holz,



Jefferson County Sheriff's Department; Donald Jacot, Jefferson Security Bank; Amberly Johnson, MVB Bank; Lanae Johnson, retired; Nicole Kubovcik, Valley Health; Anna Lesko, Inn at Charles Town; Debra McLaughlin, West Virginia Supreme Court; Brad McMoran, River Riders; Joshua Mongold, WVU Medicine-Jefferson Medical Center; Steven Shaffer, CNB Bank, Inc.; Amanda Sink, Eastern Panhandle Transit Authority; Nicola Smith, Bowles Rice LLP; Shelly Spitzer, Jefferson County Schools; Michelle Sudduth, self-employed; Jennifer Swart, Hollywood Casino at Charles Town Races; Adam Ward, Jefferson County Prosecuting Attorney's Office; Adam Ware, BB&T Home Mortgage; Romane Lallemand, an exchange student from Belgium; Heather McIntyre, Jefferson County Chamber of Commerce; and Andrew Skinner, Skinner Law Firm; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Jefferson for its service, dedication, and commitment to Jefferson County; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Leadership Jefferson.

Which, under the rules, lies over one day.

Senator Takubo offered the following resolution:

**Senate Resolution 62**—Recognizing October as National Dwarfism Month.

Whereas, The Little People of America, Inc. (LPA), a nonprofit organization, is the nation's oldest and largest organization for people with dwarfism, and celebrated its 62nd anniversary in 2019; and

Whereas, LPA was founded by the late actor Billy Barty, who, during his 70 plus year career, appeared in more than 100 films and television shows; and

Whereas, LPA is the only dwarfism support organization that includes all 200 plus forms of dwarfism and welcomes family members and people with dwarfism alike; and

Whereas, The need and support that LPA provides is demonstrated by the fact that what began with 20 people in Reno, Nevada, in 1957 has grown to a membership of more than 8000 in 2018; and

Whereas, There are an estimated 30,000 people with dwarfism in the United States, and 651,700 in the world; and

Whereas, LPA is dedicated to improving the quality of life for people with dwarfism throughout their lives while celebrating with great pride Little People's contribution to social diversity; and

Whereas, People with dwarfism contribute to the strength of the economy of West Virginia by being productive members of the workforce, covering all fields and professions; and

Whereas, LPA provides to its members support on issues including: Parenting, adoption assistance, educational scholarships, medical knowledge and access to specialists in dwarfism, peer support, bullying, community outreach, and advocacy; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes October as National Dwarfism Month; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Diana Sova and to the Little People of America, District 5.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 852**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 852) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 852) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 853**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 853) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 853) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 3127**, Relating to the Secondary School Activities Commission and participation by home schooled students.

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 3127 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Weld—1.

Absent: Mann—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. 3127) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4090**, Creating the Oil and Gas Abandoned Well Plugging Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—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. 4090) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4146**, Relating to credit for reinsurance.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4146) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

**Eng. House Bill 4146**—A Bill to amend and reenact §33-4-15a of the Code of West Virginia, 1931, as amended, relating to credit for reinsurance; allowing a credit on an insurer's annual statement when reinsurance is ceded to an assuming insurer and the assuming insurer is licensed in a reciprocal jurisdiction; defining terms; setting forth the criteria required regarding the credit for reinsurance; removing emergency rulemaking authority; providing rulemaking authority; imposing requirements and obligations on assuming insurer; imposing requirements for reinsurance agreements; imposing requirements on Insurance Commissioner;

providing Insurance Commissioner authority concerning reciprocal jurisdictions and assuming insurers; requiring the Insurance Commissioner to create and publish a list of reciprocal jurisdictions and assuming insurers; and adding effective date.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4365**, Granting of college credit hours for learning English as a second language.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4365) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4412**, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard,

Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4412) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4412) 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 4438**, Relating to the licensing of advance deposit wagering.

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: Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Rucker,



Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Azinger, Baldwin, Facemire, Prezioso, Roberts, Romano, and Sypolt—7.

Absent: Mann—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. 4438) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4438**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; defining terms; providing for source market fees; providing for privately negotiated source market fees; providing for a statutory source market fee in the absence of an agreement; providing for certain distribution of source market fees derived from wagers of account holders; providing that advance deposit account wagers are authorized; providing exception from certain provisions of code; conferring jurisdiction to the Racing Commission; providing for the assessment and imposition of licensing and annual renewal fees; providing that applicants may bear certain costs; providing for a special revenue account; providing for a fee to be paid by advance deposit wagering licensees and deposited into the special revenue account; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee; exempting advance deposit wagering from certain provisions of code and implementing rules; providing for criminal penalties for accepting advance deposit wagers without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing for a regulatory fee; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; providing for an investigation

as to whether nonresident account holders of a licensee placed wagers while physically located in West Virginia; providing for an annual report of the Racing Commission; setting forth elements of the report; and authorizing rulemaking and emergency rulemaking.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4450**, Relating to instruction permits issued by the Division of Motor Vehicles.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4450) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4461**, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo,

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Sypolt—2.

Absent: Mann—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. 4461) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4466**, Certificates of Insurance 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4466) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

**Eng. House Bill 4466**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5,

§33-53-6 and §33-53-7, all relating to certificates of insurance for property or casualty insurance; specifying short title; defining terms; establishing form requirements; providing limitations for certificates of service; setting forth limitations on use; addressing notice requirements; setting forth applicability and internal effective date; and providing for enforcement by Commissioner of Insurance, for penalties, and for rulemaking.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4466) takes effect July 1, 2020.

*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 4522**, Allowing division to accept documents compliant with Real ID Act for proof of identity.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—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. 4522) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4522**—A Bill to amend and reenact §17B-2-8 of the Code of West Virginia, 1931, as amended, relating to the issuance and content of driver's licenses; providing for display of name in manner selected by applicant when supported by appropriate documentation; and allowing Division of Motor Vehicles to accept documents compliant with federal Real ID Act as proof of identity, residency, and lawful presence.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4760**, Modifying video lottery retailer licensing eligibility requirements.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4760) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4790**, Relating to Career Technical Education for middle school students.

On third 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 4882**, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Roberts—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4882) passed with its title.

Senator Trump moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Roberts—1.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4882) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence in the changed effective date.

**Eng. House Bill 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4887) 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 4887**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to revocation, cancellation, or suspension of business registration certificates where the registrant filed a false or fraudulent application for a business registration certificate, failed to pay taxes, additions to taxes, penalties, interest, or where the Secretary of State has revoked the registrant's authority to conduct business; establishing causes for revocation, cancellation, or suspension; directing means of notice and opportunity for cure; providing procedures therefor; and specifying effective date.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4887) takes effect July 1, 2020.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4929**, Relating to the administrative closing of stale or unprogressed estates.

On third reading, coming up in regular order, was read a third time and put upon its passage.



On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4929) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4969**, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable 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, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4969) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Eng. House Bill 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

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 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

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 7. ACTIONS FOR INJURIES.**

### **§55-7-32. Fire department and emergency medical services fixed sirens; limitations on nuisance actions.**

(a) As used in this section, “fire department or emergency medical services fixed siren” means a siren of a fire department or emergency medical services station that is installed at a fixed location in close proximity to the station or is necessary for the effective operation of the fire department or emergency medical services station.

(b) A person may not maintain a nuisance action for noise against a fire department or emergency medical services station located in the vicinity of that person’s property for noise generated by a fixed siren.

The bill (Eng. H. B. 4039), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4077**, Increasing the amount of the bond required to be posted by proprietary schools.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 16A. WEST VIRGINIA PARKWAYS,  
~~ECONOMIC DEVELOPMENT AND TOURISM~~  
AUTHORITY.**

**§17-16A-13b. Collection of tolls through credit and debit cards.**

(a) By July 1, 2023, or as soon thereafter as the provisions of this subsection can be implemented without conflicting with any of its existing agreements, including but not limited to covenants under any trust agreement securing bonds related to the turnpike or tolls, the authority shall implement procedures that allow tolls on the turnpike to be paid at each toll facility by credit and debit cards with technology designed to ensure that the transaction processing speed supports operational requirements of the authority. The authority may incorporate or add a cost adjustment to the amount of any toll paid at a toll facility by credit or debit card so that the amount collected covers all charges against the authority by the credit card company or financial institution for accepting payment through the card: *Provided*, That the authority may also include in

such cost adjustment an amount that will reimburse the authority for equipment necessary to offer such optional payment method: *Provided, however,* That such cost adjustment for the optional payment by credit or debit card is not subject to toll payments made through any West Virginia EZ Pass transponder or discount program as defined or authorized by §17-16A-29 of this code: *Provided further,* That the cost adjustment for the optional use of a credit or debit cards is not subject to the public notice or meeting requirement in §17-16A-13a of this code.

(b) The authority may limit the number of toll booths that accept payment by credit and debit cards at each toll collection point.

(c) The authority shall provide a progress report to the Joint Committee on Government and Finance no later than December 31 of each year until the provisions of this section are implemented. Such report shall include a description of the status of, and any impediments to, the implementation of the provisions of this section and may include any other information the authority deems relevant.

On motion of Senator Clements, the following amendment to the Transportation and Infrastructure committee amendment to the bill (Eng. Com. Sub. for H. B. 4083) was reported by the Clerk and adopted:

On page one, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) By July 1, 2023, or as soon thereafter as the provisions of this subsection can be implemented without conflicting with any of its existing agreements, including but not limited to covenants under any trust agreement securing bonds related to the turnpike or tolls, the authority shall implement procedures that allow tolls on the turnpike to be paid at each toll facility by credit and debit cards with technology designed to ensure that the transaction processing speed supports operational requirements of the authority. The authority may incorporate or add a cost adjustment to the amount

of any toll paid at a toll facility by a credit card so that the amount collected covers all charges against the authority by the credit card company or financial institution for accepting payment through the card: *Provided*, That the authority may also include in such cost adjustment an amount that will reimburse the authority for equipment necessary to offer such optional payment method: *Provided, however*, That such cost adjustment for the optional payment by a credit card is not subject to toll payments made through any West Virginia EZ Pass transponder or discount program as defined or authorized by §17-16A-29 of this code: *Provided further*, That the cost adjustment for the optional use of a credit card is not subject to the public notice or meeting requirement in §17-16A-13a of this code.

The question now being on the Transportation and Infrastructure committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4083), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4137**, Allowing counties to store and maintain voter registration records in a digital format.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

On page two, section one, line twenty-three, by striking out the word “conjunctive” and inserting in lieu thereof “conjunctiva”.

The bill (Eng. H. B. 4161), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

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. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROMULGATE LEGISLATIVE RULES.**

**§64-3-1. Department of Environmental Protection.**

(a) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (ambient air quality standards, 45 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (standards of performance for new stationary sources, 45 CSR 16), is authorized.

(c) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §22-5-4 of this code, modified by the Department of Environmental Protection to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Department of Environmental Protection (control of air pollution from hazardous waste treatment, storage and disposal facilities, 45 CSR 25), is authorized.

(d) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (emission standards for hazardous air pollutants, 45 CSR 34), is authorized.

(e) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (control of ozone season nitrogen oxides emissions, 45 CSR 40), is authorized.

(f) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §22-3-4 of this code, relating to the Department of Environmental Protection (West Virginia surface mining reclamation rule, 38 CSR 02), is authorized with the following amendments:

On page 120, subdivision 11.3.a.3, by striking out paragraph 11.3.a.3 and inserting in lieu thereof a new paragraph 11.3.a.3 to read as follows:

“11.3.a.3. Any company that executes surety bonds in the State after July 1, 2001, must: (i) be recognized by the treasurer to the state as holding a current certificate of authority from the United States Department of the Treasury as an acceptable surety on federal bonds by being included on the Treasury Department’s listing of approved sureties (Department Circular 570); or (ii) submit proof to the secretary that it holds a valid license issued by the West Virginia Insurance Commissioner, and agree to submit to the secretary on at least a quarterly basis a certificate of good standing from the West Virginia Insurance Commissioner and such other evidence from the insurance regulator of its domiciliary state,

if other than West Virginia, demonstrating that it is also in good standing in that state: ~~Companies not included on the United States Treasury Department's listing of approved sureties~~ Provided, That those companies electing to execute bonds under the provisions of subparagraph (i) of this paragraph must diligently pursue application for listing, submit evidence on a semi-annual basis demonstrating that they are pursuing such listing, and within four (4) years, obtain a certificate of authority from the United States Department of the Treasury as an acceptable surety on federal bonds."

And,

On page 183, paragraph 16.2.c.2, by striking out paragraph 16.2.c.2 and inserting in lieu thereof a new paragraph 16.2.c.2 to read as follows:

"16.2.c.2. ~~Either~~ At the owner's election, either correct material damage resulting from subsidence caused to any structures or facilities by compensating the owner in the amount of the cost to repair ~~repairing~~ the damage or compensate the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may also be accomplished by the purchase prior to mining of a non-cancelable premium-prepaid insurance policy. The requirements of this paragraph only apply to subsidence related damage caused by underground mining activities conducted after October 24, 1992: Provided, That this paragraph does not create additional property rights nor may it be construed as vesting in the secretary the jurisdiction to adjudicate property rights disputes. and"

(g) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §22-12-6 of this code, relating to the Department of Environmental Protection (groundwater protection rules for coal mining operations, 38 CSR 02F), is authorized.



(h) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §22-18-6 of this code, relating to the Department of Environmental Protection (hazardous waste management system, 33 CSR 20), is authorized.

(i) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §22-22-3 of this code, relating to the Department of Environmental Protection (voluntary remediation and redevelopment rule, 60 CSR 03), is authorized.

### **§64-3-2. Oil and Gas Conservation Commission.**

The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §22C-9-5 of this code, modified by the Oil and Gas Conservation Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2020, relating to the Oil and Gas Conservation Commission (rules of the commission, 39 CSR 01), is authorized.

On motions of Senators Trump and Hardesty, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4217) was reported by the Clerk:

On page two, subsection (f), section 16.2.c.2., lines forty-one through forty-four, by striking out the first sentence and inserting in lieu thereof the following: “~~Either~~ At the owner’s election, either correct material damage resulting from subsidence caused to any structures or facilities by repairing compensating the owner in the amount of the cost to repair the damage, but not to exceed one hundred and thirty percent of the pre-mining value of the structure or facility, or compensate the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence.”

At the request of Senator Trump, and by unanimous consent, the amendment offered by Senators Trump and Hardesty to the Judiciary committee amendment to the bill was withdrawn.

The question now being on the adoption of the Judiciary committee amendment to the bill.

Following discussion and a point of inquiry to the President, with resultant response thereto,

The question being on the adoption of the Judiciary committee amendment to the bill, and on this question, Senator Romano 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, Unger, Weld, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, and Carmichael (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the Judiciary committee amendment to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 4217) was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

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 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.**

**§64-9-1. Board of Accountancy.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-9-5 of this code, modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 8, 2019, relating to the Board of Accountancy (board rules and rules of professional conduct, 1 CSR 01), is authorized.

**§64-9-2. Board of Acupuncture.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (fees for the Board of Acupuncture, 32 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2019, relating to the Board of Acupuncture (auricular detoxification therapy certificate, 32 CSR 14), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (application for waiver of initial licensing fees for certain individuals, 32 CSR 15), is authorized.

(d) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the

State Register on November 14, 2019, relating to the Board of Acupuncture (consideration of prior criminal convictions in initial licensure determinations, 32 CSR 16), is authorized.

**§64-9-3. Commissioner of Agriculture.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-37-3 of this code, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized.

(d) The legislative rule filed in the State Register on July 11, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication, 61 CSR 13A), is authorized.

(e) The legislative rule filed in the State Register on January 7, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (grade “A” pasteurized milk, 61 CSR 15), is authorized.

(f) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia manufacture-grade milk, 61 CSR 19), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-1-3b of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Commissioner of Agriculture (employment reference and inquiries and background checks, 61 CSR 20), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-20C-3 of this code, relating to the Commissioner of Agriculture (West Virginia Spay-Neuter Assistance Program, 61 CSR 24), is authorized with the following amendments:

On page two, subsection 3.10, after the word “rule” by inserting the following words “to perform spay neuter services for eligible owners and caretakers”;

On page two, after subdivision 3.10.b., by inserting a new subsection, designated 3.11, to read as follows:

“3.11. “Low-income restricted program” means a spay neuter program that provides spay neuter services to owners or caretakers currently receiving assistance from at least one of the state and federal public assistance programs:

3.11.a. The Supplemental Nutrition Assistance Program (SNAP);

3.11.b. Medicaid;

3.11.c. Supplemental Security Income (SSI);

3.11.d. The West Virginia Low Income Energy Assistance Program (LIEAP);

3.11.e. Social Security Disability;

3.11.f. Temporary Assistance for Needy Families (TANF);

3.11.g. Aid to Families with Dependent Children (AFCD);

3.11.h. Children’s Health Insurance Program (CHIP); or

3.11.i. Low Income Veterans Assistance under 38 USC 2044.”;  
and re-numbering the remaining subsections;

On page four, subsection 6.1, after the word “delivery.” by adding the following sentence: “The Advisory Committee shall give preference to applicants that intend to operate a low-income restricted program.”

On page four, subsection 6.2, after the word “application.” by adding the following sentence: “The Commission shall give preference to applicants that intend to operate a low-income restricted program.”

And,

On page five, by striking out all of §61-24-7 and renumbering the remaining section.

(i) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (industrial hemp, 61 CSR 29), is authorized with the following amendment:

On page six, section 5.6. by striking everything after the words “the commissioner may” and inserting in lieu thereof the following:

“upon request, and if permitted by the United States Department of Agriculture, permit a licensee to submit a Corrective Action Plan and request a second sampling and test of the crop following implementation of the Corrective Action Plan.”

(j) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (hemp products, 61 CSR 30), is authorized with the following amendments:

On page four, section four, subdivision 4.6.a, after the words “changes in”, by adding the words “the chemical composition or formula of”;

On page five, section four, subdivision 4.6.c, after the words “changes to”, by adding the words “health-related”;

On page five, section four after subdivision 4.6.c, by renumbering the remaining subsections;

On page five, section four, subsection 4.7, after the word “retailer”, by adding the words “or distributor”;

On page five, section five, after subdivision 5.7, by inserting a new subdivision, designated subdivision 5.8 to read as follows:

5.8. A distributor of hemp products that does not itself engage in retail sales is not required to register under this section.

On page six, section seven, subsection 7.2, after the words “produced for”, by adding the word “topical”;

On page six, section seven, subsection 7.2, by striking the words “Cosmetic Product” and inserting in lieu thereof the words “Cosmetic Products”;

On page six, section seven, subsection 7.3, by striking the word “medical” and inserting in lieu thereof the words “disease or drug”;

On page six, section seven, by striking subsection 7.7 and renumbering the remaining subsections;

(k) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-2H-12 of this code, relating to the Commissioner of Agriculture (captive cervid farming, 61 CSR 34), is authorized with the following amendment:

On page 9, section 11, by striking out all of section 11.15 and inserting in lieu thereof the following:

“11.15. The owner shall have a West Virginia licensed and accredited veterinarian or designee perform an annual visual examination of each animal and take an inventory to reconcile inventory records submitted with the license application or renewal. When the veterinarian performs the annual visual examination of each animal and takes an inventory, the West Virginia licensed and accredited veterinarian shall submit the veterinarian report to the Department within sixty (60) days of receipt and the inventory within thirty (30) days of completion.”

(l) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Commissioner of Agriculture (farmers markets, 61 CSR 38), is authorized with the following amendment:

On page 7, section 7, subsection 7.4, after the word “products”, by inserting the words “excluding whole uncut produce and”.

(m) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia exempted dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

#### **§64-9-4. Board of Architects.**

(a) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-12-1 of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 16, 2019, authorized under the authority of §30-12-3 of this code,



modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Architects (fees for registration of architects, 2 CSR 03), is authorized.

**§64-9-5. Board of Chiropractic Examiners.**

(a) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2019, relating to the Board of Chiropractic Examiners (application for waiver of initial licensing fees for certain individuals, 4 CSR 07), is authorized.

(b) The legislative rule filed in the State Register on September 10, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Chiropractic Examiners (consideration of prior criminal convictions in initial licensure determinations, 4 CSR 08), is authorized.

**§64-9-6. Board of Examiners in Counseling.**

The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 9, 2019, relating to the Board of Examiners in Counseling (application for waiver of initial licensing fees for certain individuals, 27 CSR 13), is authorized.

**§64-9-7. West Virginia Board of Dentistry.**

(a) The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-4-6 of this code, relating to the West Virginia Board of Dentistry (rule for the West Virginia Board of Dental Examiners, 5 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the West Virginia Board of Dentistry (dental advertising, 5 CSR 08), is authorized.

#### **§64-9-8. Board of Licensed Dietitians.**

(a) The legislative rule filed in the State Register on August 30, 2019, authorized under the authority of §30-35-4 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Board of Licensed Dietitians (licensure and renewal requirements, 31 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Board of Licensed Dietitians (application for waiver of initial licensing fees for certain individuals, 31 CSR 06), is authorized.

#### **§64-9-9. Election Commission.**

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-8-8 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Election Commission (corporate and membership organization political activity, 146 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-1A-5 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the

State Register on December 2, 2019, relating to the Election Commission (regulation of campaign finance, 146 CSR 03), is authorized.

**§64-9-10. Board of Funeral Service Examiners.**

(a) The legislative rule filed in the State Register on July 23, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Funeral Service Examiners (application for waiver of initial licensing fees for certain individuals, 6 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Funeral Service Examiners (consideration of prior criminal convictions in initial licensure determinations, 6 CSR 06), is authorized.

**§64-9-11. Board of Hearing Aid Dealers.**

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2019, relating to the Board of Hearing Aid Dealers (application for waiver of initial licensing fees for certain individuals, 8 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Hearing Aid Dealers (consideration of prior criminal

convictions in initial licensure determinations, 8 CSR 05), is authorized.

**§64-9-12. Board of Landscape Architects.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 21, 2019, relating to the Board of Landscape Architects (consideration of prior criminal convictions in initial licensure determinations, 9 CSR 05), is authorized.

**§64-9-13. Massage Therapy Licensure Board.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Massage Therapy Licensure Board (application for waiver of initial licensing fees for certain individuals, 194 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Massage Therapy Licensure Board (consideration of prior criminal convictions in initial licensure determinations, 194 CSR 06), is authorized.

**§64-9-14. Medical Imaging and Radiation Therapy Technology Board of Examiners.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-23-7 of this code, modified by the Medical Imaging and Radiation Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the

State Register on October 31, 2019, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, 18 CSR 01), is authorized.

**§64-9-15. Board of Medicine.**

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (waiver of initial licensing fees for certain initial licensure applicants, 11 CSR 13), is authorized.

**§64-9-16. Nursing Home Administrators Licensing Board.**

The legislative rule filed in the State Register on November 26, 2019, authorized under the authority of §30-25-6 of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2019, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 01), is authorized.

**§64-9-17. Board of Occupational Therapy.**

(a) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (fees for services rendered by the Board, 13 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Occupational Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2019, relating to the Board of Occupational Therapy (request for waiver of initial licensing fees for certain individuals, 13 CSR 07), is authorized.

(c) The legislative rule filed in the State Register on December 2, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Occupational Therapy (consideration of prior criminal convictions in initial licensure determinations, 13 CSR 08), is authorized.

#### **§64-9-18. Board of Optometry.**

The legislative rule filed in the State Register on October 1, 2019, authorized under the authority of §30-8-6 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2019, relating to the Board of Optometry (rules for the West Virginia Board of Optometry, 14 CSR 01), is authorized.

#### **§64-9-19. Board of Osteopathic Medicine.**

(a) The legislative rule filed in the State Register on July 31, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the

Board of Osteopathic Medicine (waiver of initial licensing fees for certain initial licensure applicants, 24 CSR 08), is authorized.

**§64-9-20. Board of Pharmacy.**

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (record keeping and automated data processing systems, 15 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for registration of pharmacy technicians, 15 CSR 07), is authorized with the following amendments:

On page 5, section 4, by striking subdivision 4.3.c and inserting the following:

“4.3.c. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if:”

And

On page 10, section 6, by striking subsection 6.7 and 6.8 and inserting the following:

“6.7. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if:

6.7.a. a period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

6.7.b. the individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

6.7.c. the conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the individual board.”

And,

By renumbering the remaining subsections.

(d) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, relating to the Board of Pharmacy (Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for centralized prescription processing, 15 CSR 14), is authorized.



(f) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (regulations governing pharmacy permits, 15 CSR 15), is authorized.

(g) The legislative rule filed in the State Register on October 10, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (regulations governing pharmacists, 15 CSR 16), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (application for waiver of initial licensing fees for certain individuals, 15 CSR 18), is authorized.

#### **§64-9-21. Board of Physical Therapy.**

(a) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for physical therapist and physical therapist assistants, 16 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of

Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for athletic trainers, 16 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 18, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (application for waiver of initial licensing fees for certain individuals, 16 CSR 09), is authorized.

#### **§64-9-22. Board of Registration for Professional Engineers.**

The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-13-9 of this code, modified by the Board of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Registration for Professional Engineers (examination, licensure and practice of professional engineers, 7 CSR 01), is authorized.

#### **§64-9-23. Board of Professional Surveyors.**

The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-13A-6 of this code,

modified by the Board of Professional Surveyors to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2019, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 01), is authorized.

**§64-9-24. Board of Psychologists.**

The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-1-23 and §30-1-24 of this code, modified by the Board of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 8, 2020, relating to the Board of Psychologists (consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals, 17 CSR 07), is authorized.

**§64-9-25. Real Estate Appraiser Licensing and Certification Board.**

The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2019, relating to the Real Estate Appraiser Licensing and Certification Board (requirements for licensure and certification, 190 CSR 02), is authorized.

**§64-9-26. Real Estate Commission.**

(a) The legislative rule filed in the State Register on July 2, 2019, authorized under the authority of §30-1-23 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Real Estate Commission (application for waiver of initial licensing fees for certain individuals, 174 CSR 06), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 3, 2019, relating to the Real Estate Commission (consideration of prior criminal convictions in initial license eligibility determination, 174 CSR 07), is authorized.

**§64-9-27. Board of Examiners for Registered Professional Nurses.**

(a) The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-7-4 of this code, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Board of Examiners for Registered Professional Nurses (request for waiver of initial licensing fees for certain individuals, 19 CSR 15), is authorized.

**§64-9-28. West Virginia Board of Respiratory Care.**

(a) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the West Virginia Board of Respiratory Care (establishment of fees, 30 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee

and refiled in the State Register on October 2, 2019, relating to the West Virginia Board of Respiratory Care (student temporary permit, 30 CSR 09), is authorized.

(c) The legislative rule filed in the State Register on December 10, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Respiratory Care (consideration of prior criminal convictions in initial licensure determinations, 30 CSR 10), is authorized.

#### **§64-9-29. Board of Sanitarians.**

The legislative rule filed in the State Register on November 1, 2019, authorized under the authority of §30-17-6 of this code, modified by the Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 7, 2020, relating to the Board of Sanitarians (waiver of initial application fees and criteria for initial licensure, 20 CSR 05), is authorized.

#### **§64-9-30. Board of Social Work.**

(a) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 1, 2019, relating to the Board of Social Work (qualifications for the profession of social work, 25 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Social Work (fee schedule, 25 CSR 03), is authorized.

#### **§64-9-31. Board of Speech-Language Pathology and Audiology.**

(a) The legislative rule filed in the State Register on June 28, 2019, authorized under the authority of §30-32-7 of this code,

modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4, 2019, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized with the following amendments:

On page seven, subdivision 10.8.1.a., following the word “for”, by inserting the words, “active duty”.

And,

On page seven, subdivision 10.8.2.a., following the word “for”, by inserting the words, “active duty”.

(b) The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-32-7 of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2019, relating to the Board of Speech-Language Pathology and Audiology (disciplinary and complaint procedures for speech-language pathology and audiology, 29 CSR 04), is authorized.

#### **§64-9-32. State Auditor.**

The legislative rule filed in the State Register on July 8, 2019, authorized under the authority of §6-9-2a of this code, relating to the State Auditor (local government purchasing card program, 155 CSR 06), is authorized.

#### **§64-9-33. State Conservation Committee.**

The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §19-21A-4(g)(11) of this code, relating to the State Conservation Committee (State Conservation Committee Grant Program, 63 CSR 03), is authorized.

#### **§64-9-34. Board of Veterinary Medicine.**

(a) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the

objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (organization and operation and licensing of veterinarians, 26 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (registration of veterinary technicians, 26 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (schedule of fees, 26 CSR 06), is authorized with the amendments set forth below:

On page 2, Section 3.6, by striking out “\$100.00” and inserting in lieu thereof “\$10.00”;

On page 2, Section 3.7, by striking out “\$80.00” and inserting in lieu thereof “\$5.00”;

On page 2, Section 3.8, by striking out “\$25.00” and inserting in lieu thereof “\$2.00”;

And,

On page 2, Section 3.9, by striking out “\$80.00” and inserting in lieu thereof “\$6.00”.

The bill (Eng. Com. Sub. for H. B. 4252), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4352**, Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making.

On second reading, coming up in regular order, was read a second time.

On motions of Senators Romano, Baldwin, Beach, Facemire, Jeffries, Lindsay, and Prezioso, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page seven, section two, line thirty-three, after the word “person” by inserting the words “who can show proof he or she passed, within the previous 12 months, an alcohol test as defined by §21-1D-2(a) of this code and a drug test as defined by §21-1D-2(d) of this code, and who is”;

And,

On page seven, section two, line forty-nine, after the word “person” by inserting the words “who can show proof he or she passed, within the previous 12 months, an alcohol test as defined by §21-1D-2(a) of this code and a drug test as defined by §21-1D-2(d) of this code, and”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Romano, et al. to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, 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 the amendments offered by Senators Romano, et al. to the bill rejected.



The bill (Eng. Com. Sub. for H. B. 4352) was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4398**, Relating to required courses of instruction.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section nine, line thirty-eight, by striking out the words “and opportunity”;

And,

On page two, section nine, line forty, after the word “diseases” by inserting the words “along with the opportunity”.

The bill (Eng. Com. Sub. for H. B. 4398), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4434**, West Virginia health care workforce sustainability study.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section nine, line eight, by striking out the word “and”;

On page one, section nine, line ten, after the word “code” by changing the period to a semicolon and adding the following: “and;

(G) Emergency Medical Service Agency, as defined by §16-4C-1 et seq. of this code.”;

On page five, section nine, line ninety-seven, by striking out the word “and”;

On page five, section nine, line ninety-eight, after the word “Home” by changing the period to a semicolon and adding the following: “and;

(vii) Emergency Medical Service Agency.”;

On page five, section nine, line one hundred seventeen by striking out the word “and”;

On page five, section nine, line one hundred eighteen, after the word “Technician” by changing the period to a colon and adding the following:

(xx) Radiologic Technologist; and

(xxi) Emergency Medical Service Personnel.

The bill (Eng. Com. Sub. for H. B. 4434), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4464**, Relating to driving privileges and requirements for persons under the age of 18.

Having been read a second time on Saturday, February 29, 2020, and now coming up in regular order with the Transportation and Infrastructure committee amendments pending, was reported by the Clerk.

The following amendments to the bill, from the Committee on Transportation and Infrastructure, were again reported by the Clerk, considered simultaneously, and adopted:

On page two, section three-a, line thirty-three, after the word “military” by inserting a comma;

And,

On page six, section three-a, lines one hundred twenty-nine and one hundred thirty, by striking out the words “§17B-2-3a(c)(2)”

§17B-2-3a(d)(1)(A), §17B-2-3a(d)(1)(B), §17B-2-3a(d)(1)(C) or §17B-2-3a(d)(1)(D) of this code” and inserting in lieu thereof the words “§17B-2-3a(d)(2) of this code”.

The bill (Eng. Com. Sub. for H. B. 4464), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4478**, Creating a lifetime ban for commercial drivers involved in human trafficking.

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 1. COMMERCIAL DRIVER’S LICENSE.**

### **§17E-1-13. Disqualification.**

(a) A person may not operate a commercial motor vehicle if his or her privilege to operate a commercial motor vehicle is disqualified under the provisions of the Federal Motor Carrier Safety Improvement Act of 1999, 49 C. F. R. Part §383, Subpart D (2004) or in accordance with the provisions of this section.

(1) For the purposes of determining first and subsequent violations of the offenses listed in this section, each conviction resulting from a separate incident includes convictions for offenses committed in a commercial motor vehicle or a noncommercial motor vehicle.

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6), subsection (b) of this section is eligible for reinstatement of privileges to operate a commercial motor vehicle after 10 years and after completion of the Safety and Treatment Program or other

appropriate program prescribed by the division. Any person whose lifetime disqualification has been amended under the provisions of this subdivision, and who is subsequently convicted of a disqualifying offense described in subdivisions (1) through (§7), inclusive, subsection (b) of this section, is not eligible for reinstatement. Any person disqualified from operating a commercial motor vehicle for life under subsection (n) of this section is not eligible for reinstatement.

(3) Any person who committed a disqualifying offense contained in paragraph (B) or (E), subdivision (1), subsection (b) of this section prior to obtaining a commercial driver's license, and who committed the disqualifying offense more than 10 years before he or she applied for a commercial driver's license, and who has completed the Safety and Treatment Program or other appropriate program prescribed by the division, shall be considered to have served the period of disqualification and ~~shall be~~ is eligible to obtain a commercial driver's license so long as all other eligibility requirements contained in §17E-1-9 and §17E-1-10 of this code are satisfied.

(4) Any disqualification imposed by this section is in addition to any action to suspend, revoke, or cancel the driver's license or driving privileges if suspension, revocation, or cancellation is required under another provision of this code.

(5) The provisions of this section apply to any person operating a commercial motor vehicle and to any person holding a commercial driver's license.

(b) Any person is disqualified from driving a commercial motor vehicle for the following offenses and time periods if convicted of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial

motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one year.

(C) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or for refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(2) Driving a commercial motor vehicle while the person's alcohol concentration of the person's blood, breath, or urine is four hundredths of one percent or more, by weight;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be

placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test required by the provisions of this code or the provisions of 49 C. F. R. §383.72 (2004);

(A) For the first conviction or refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction or refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a

noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in §17E-1-3 of this code; ~~except that the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance falls under the provisions of subdivision (8) of this subsection~~ subsection (n) except as set forth specifically in subsection (n) of this section;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's privilege to operate a motor vehicle has been suspended, revoked, or canceled, or the driver's privilege to operate a commercial motor vehicle has been disqualified.

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.



(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent homicide as defined in §17B-3-5, and §17C-5-1 of this code;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

~~(8) Using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance, a driver is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.~~

(c) Any person is disqualified from driving a commercial motor vehicle if convicted of:

(1) Speeding excessively involving any speed of 15 miles per hour or more above the posted speed limit;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver

is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder shall be disqualified from operating a commercial motor vehicle for a period of 120 days.

(2) Reckless driving as defined in §17C-5-3 of this code, careless or negligent driving, including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results

in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(3) Making improper or erratic traffic lane changes;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver

is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(4) Following the vehicle ahead too closely;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified

from operating a commercial motor vehicle for a period of 120 days.

(5) Violating any law relating to traffic control arising in connection with a fatal accident, other than a parking violation;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(6) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver

is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(7) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession except that any person who provides proof of possession of a commercial driver's license to the enforcement agency that issued the citation by the court appearance or fine payment deadline is not guilty of this offense;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(8) Driving a commercial motor vehicle without the proper class of commercial driver's license or the proper endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial

driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to §17E-1-14a of this code or similar law of this or any other jurisdiction or 49 C. F. R. §392.80;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(d) Any person convicted of operating a commercial motor vehicle in violation of any federal, state, or local law or ordinance pertaining to railroad crossing violations described in subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a commercial motor vehicle for the period of time specified;

(1) Failing to slow down and check that the tracks are clear of an approaching train, if not required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to stop in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(3) Failing to stop before driving onto the crossing, if required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, the driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(4) Failing to have sufficient space to drive completely through the crossing without stopping in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;



(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(5) Failing to obey a traffic control device or the directions of an enforcement official at the crossing in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(6) Failing to negotiate a crossing because of insufficient undercarriage clearance in accordance with the provisions of §17C-12-3 of this code.

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(e) Any person who is convicted of violating an out-of-service order while operating a commercial motor vehicle is disqualified for the following periods of time:

(1) If convicted of violating a driver or vehicle out-of-service order while transporting nonhazardous materials;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for two years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(2) If convicted of violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or while operating a vehicle designed to transport 16 or more passengers including the driver;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while

operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(f) After disqualifying, suspending, revoking, or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days.

(g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and 49 C. F. R. §384.226 (2004), notwithstanding the provisions of §61-11-25 of this code, no record of conviction, revocation, suspension, or disqualification related to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial driver's license holder or a person operating a commercial motor vehicle may be masked, expunged, deferred, or be subject to any diversion program.

(h) Notwithstanding any provision in this code to the contrary, the division may not issue any temporary driving permit, work-only driving permit, or hardship license or permit that authorizes a person to operate a commercial motor vehicle when his or her privilege to operate any motor vehicle has been revoked, suspended, disqualified, or otherwise canceled for any reason.

(i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is disqualified from operating a commercial motor vehicle for the duration of any suspension, revocation, or cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by any other state or jurisdiction until the driver complies with the terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle upon a notice from the assistant administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

(k) In accordance with the provisions of 49 C. F. R. §1572.11(a), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver's license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C. F. R. §1572.5. The disqualification remains in effect until the driver either surrenders the driver's license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.

(l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.

(m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify a driver's privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C. F. R. 383 Subpart J or 49 C. F. R. §383.71(a) for 60 days in addition to any other penalty prescribed by this code.

(n) Lifetime Disqualification Without Reinstatement.—

(1) Controlled substance violations — An individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or involving possession with intent to manufacture, distribute, or dispense a controlled substance is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

(2) Human trafficking violations — An individual who uses a commercial motor vehicle in committing a felony involving an act

or practice described in paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)) is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

The bill (Eng. Com. Sub. for H. B. 4478), as amended, was then ordered to third reading.

**Eng. House Bill 4480**, Relating to legislative rules for the Higher Education Policy Commission.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4504**, Relating to renewal application requirements for individuals with permanent disabilities.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

### **ARTICLE 13. STOPPING, STANDING, AND PARKING.**

**§17C-13-6. Stopping, standing, or parking privileges for persons with a mobility impairment; disabled veterans; definitions; qualification; special registration plates and removable windshield placards; expiration, application; violation; penalties.**

(a)(1) The commissioner may issue up to two special registration plates or removable windshield placards to a person with a mobility impairment or a West Virginia organization which transports persons with disabilities and facilitates the mobility of its customers, patients, students, or persons otherwise placed under its responsibility.

(2) Special registration plates or placards may only be issued for placement on a Class A or Class G motor vehicle registered under the provisions of §17A-3-1 *et seq.* of this code.

(3) The applicant shall specify whether he or she is applying for a special registration plate, a removable windshield placard, or both on the application form prescribed and furnished by the commissioner.

(4) The applicant shall submit, with the application, a certificate issued by any physician, chiropractor, advanced nurse practitioner, or physician's assistant who is licensed in this state, stating that the applicant has a mobility impairment, or that the applicant is an organization which regularly transports a person with a mobility impairment as defined in this section. The physician, chiropractor, advanced nurse practitioner, or physician's assistant shall specify in the certificate whether the disability is temporary or permanent. ~~A disability which is temporary shall not exceed six months. A disability which is permanent is one which is one to five years or more in expected duration. A disability which is temporary is one expected to last for a limited duration and improve during the applicant's life. A disability which is permanent is one which is expected to last during the duration of the applicant's life.~~

(5) Upon receipt of the completed application, the physician's certificate and the regular registration fee for the applicant's vehicle class, if the commissioner finds that the applicant qualifies for the special registration plate or a removable windshield placard as provided in this section, he or she shall issue to the applicant a special registration plate (upon remittance of the regular registration fee) or a removable windshield placard (red for temporary and blue for permanent), or both. Upon request, the commissioner shall also issue to any otherwise qualified applicant one additional placard having the same expiration date as the applicant's original placard. The placard shall be displayed by hanging it from the interior rearview mirror of the motor vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated accessible parking space. The placard may be removed from the rearview mirror whenever the vehicle is being

operated to ensure clear vision and safe driving. Only in the event that there is no suitable rearview mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.

(6) Organizations which transport people with disabilities will be provided with a placard which will permit them to park in a designated area for the length of time necessary to load and unload passengers. These vehicles must be moved to a nondesignated space once the loading or unloading process is complete.

(b) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a “mobility impairment” means a person who is a citizen of West Virginia and as determined by a physician, allopath, or osteopath, chiropractor, advanced nurse practitioner, or physician’s assistant licensed to practice in West Virginia:

(A) Cannot walk 200 feet without stopping to rest;

(B) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device, or another person;

(C) Is restricted by lung disease to such an extent that the person’s force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(D) Uses portable oxygen;

(E) Has a cardiac condition to such an extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association; or

(F) Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic condition;

(2) “Special registration plate” means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) “Removable windshield placard” (permanent or temporary) means a two-sided, hanger-style placard measuring three inches by nine and one-half inches, with all of the following on each side:

(A) The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

(B) An identification number measuring one inch in height;

(C) An expiration date in numbers measuring one inch in height; and

(D) The seal or other identifying symbol of the issuing authority;

(4) “Regular registration fee” means the standard registration fee for a vehicle of the same class as the applicant’s vehicle;

(5) “Public entity” means state or local government or any department, agency, special purpose district, or other instrumentality of a state or local government;

(6) “Public facility” means all or any part of any buildings, structures, sites, complexes, roads, parking lots, or other real or personal property, including the site where the facility is located;

(7) “Place or places of public accommodation” means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

(A) Inns, hotels, motels, and other places of lodging;



(B) Restaurants, bars, or other establishments serving food or drink;

(C) Motion picture houses, theaters, concert halls, stadiums, or other places of exhibition or entertainment;

(D) Auditoriums, convention centers, lecture halls, or other places of public gatherings;

(E) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers, or other sales or rental establishments;

(F) Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals, or other service establishments;

(G) Terminals, depots, or other stations used for public transportation;

(H) Museums, libraries, galleries, or other places of public display or collection;

(I) Parks, zoos, amusement parks, or other places of recreation;

(J) Public or private nursery, elementary, secondary, undergraduate, or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies, or other social services establishments; and

(K) Gymnasiums, health spas, bowling alleys, golf courses, or other places of exercise or recreation;

(8) “Commercial facility” means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity;

(9) “Accessible parking” formerly known as “handicapped parking” is the present phrase consistent with language within the Americans with Disabilities Act (ADA).

(10) "Parking enforcement personnel" includes any law-enforcement officer as defined by §30-29-1 of this code, and private security guards, parking personnel, and other personnel authorized by a city, county, or the state to issue parking citations.

Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the removable windshield placard provided for in this section, and any person who falsely certifies that a person is mobility impaired in order that an applicant may be issued the special registration plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500. Any person who fabricates, uses, or sells unofficially issued windshield placards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500 per placard fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued identification cards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700 per identification card fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued labels imprinted with a future expiration date to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700. Any person covered by this section who sells or gives away their officially issued windshield placard to any person or organization not qualified to apply or receive the placard and then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she, or they may otherwise incur, shall lose their right to receive or use a special placard or special license plate for a period of not less than five years.

(c) The commissioner shall set the expiration date for special registration plates and permanent removable windshield placards

on the last day of a given month and year, to be valid for a minimum of one year but not more than five years, after which time a new application must be submitted to the commissioner. After the commissioner receives the new application, signed by a certified physician, chiropractor, advanced nurse practitioner, or physician's assistant if required under this subsection, the commissioner shall issue: (i) A new special registration plate or new permanent removable windshield placard; or (ii) official labels imprinted with the new expiration date and designed so as to be placed over the old dates on the original registration plate or windshield placard: Provided, That a new application under this subsection must not be accompanied by a certificate pursuant to §17C-13-6(a)(4) of this code if a prior application is on file with the commissioner, such application includes a certificate issued pursuant to §17C-13-6(a)(4) of this code, such certificate specifies that the applicant's disability is permanent for life, and such certificate was made within 10 years of the new application.

(d) The commissioner shall set the expiration date of temporary removable windshield placards to be valid for a period of approximately six months after the application was received and approved by the commissioner.

(e) The commissioner shall issue to each applicant who is granted a special registration plate or windshield placard an identification card bearing the applicant's name, assigned identification number, and expiration date. The applicant shall thereafter carry this identification card on his or her person whenever parking in an accessible parking space. The identification card shall be identical in design for both registration plates and removable windshield placards.

(f) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps, or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every 12 or 24 inches apart

along with the words “no parking” in painted letters which are at least 12 inches in height. All accessible parking spaces must have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(g) A vehicle displaying a disabled veterans special registration plate issued pursuant to §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of this section.

(h) A vehicle from any other state, United States territory, or foreign country displaying an officially issued special registration plate, placard, or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard, or decal is mounted or displayed on the vehicle.

(i) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities, including state, county, and municipal buildings and facilities, places of public accommodation, and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment and disabled veterans at all times.

(j) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state is contrary to the provisions of

this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment is guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(k) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand, or park a motor vehicle in an area designated, zoned, or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as “van accessible” but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(l) All signs that designate areas as “accessible parking” or that display the international symbol of access shall also include the words “Up to \$500 fine”.

(m) No person may stop, stand, or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(n) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle’s license plate, since the driver normally will not be present.

(o) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers’ compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle’s license plate number, date, time, and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned, or designated

accessible parking areas by the supervising law-enforcement agency.

(p) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (o) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.

(q) The commissioner shall prepare and issue a document to applicants describing the privileges accorded a vehicle having a special registration plate and removable windshield placard as well as the penalties when the vehicle is being inappropriately used as described in this section and shall include the document along with the issued special registration plate or windshield placard. In addition, the commissioner shall issue a separate document informing the general public regarding the new provisions and increased fines being imposed either by way of newspaper announcements or other appropriate means across the state.

(r) The commissioner shall ~~adopt and promulgate rules~~ propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.

The bill (Eng. H. B. 4504), as amended, was then ordered to third reading.

**Eng. House Bill 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

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 8. CRIMES BY AND PROCEEDINGS AGAINST INMATES.****§62-8-1. Offenses by inmates; conspiracy.**

(a) A person imprisoned or otherwise in the custody of the Commissioner of Corrections ~~or the Executive Director of the Regional Jail and Correctional Facility Authority and Rehabilitation~~ is guilty of a felony if he or she kills, wounds, or inflicts other bodily injury upon any person at any correctional facility; or breaks, cuts, or injures, or sets fire to any building, fixture, or fastening of any correctional facility, or jail or any part thereof, for the purpose of escaping or aiding any other inmate to escape therefrom, or renders any correctional facility or jail less secure as a place of confinement; or makes, procures, secretes, or has in his or her possession, any instrument, tool, or other thing for such purpose, or with intent to kill, wound, or inflict bodily injury; or resists the lawful authority of an officer or guard of any correctional facility or jail for such purpose or with such intent. Any three or more inmates ~~so~~ confined, or in ~~such~~ custody, who conspire together to commit any offense mentioned in this section are each guilty of a felony.

(b) Any person in the custody of the Commissioner of Corrections and Rehabilitation who commits an act of bodily intrusion is guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years. As used in this subsection "bodily intrusion" means penetration, however slight, of the anus of a male or female or the sex organ of a female without his or her consent by means of forcible compulsion and for reasons other than the sexual gratification of either person.

The bill (Eng. H. B. 4510), as amended, was then ordered to third reading.

**Eng. House Bill 4529**, Relating to the collection of assessments and the priority of liens on property within a resort area.



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 25. RESORT AREA DISTRICTS.**

### **§7-25-22. Liens; recording notice of liens; priority; release of lien; notice to future property owners.**

(a) With the exception of property exempt from assessment pursuant to §7-25-18 of this code, there shall be a lien on all real property located within the resort area district for the assessments imposed by §7-25-17 of this code, which ~~lien~~ shall attach to those parcels made subject to the assessment on the date specified in the notice to property owners. A notice of the liens of ~~said~~ the assessments referring to the assessing resolution and setting forth a list of the property assessed, described respectively as to amounts of assessment, ownership, and location of the property, shall be certified, by the ~~chairman~~ chair and secretary of the board, to the clerk of the county commission of the county ~~wherein in which~~ the project is located. The county clerk shall record the notice of ~~such~~ the lien in the appropriate trust deed book or other appropriate county lien book and index the ~~same~~ lien in the name of each owner of real property assessed. From the date of an assessment, the trustee, for the benefit of bondholders if assessment bonds are issued by the resort area district, and/or the district ~~shall have such~~ has the lien and shall be is entitled to enforce the ~~same~~ lien in its, his, her, or their name to the extent of the amount, including principal and interest and any penalty due for any failure to pay an installment when due, of ~~such~~ the assessments and against the property to which the assessment applies, as to any assessment not paid as and when due. The trustee or the district, as an alternative to the enforcement provision set forth in §7-25-21 of this code, are granted all legal remedies ~~as are~~ necessary to collect the assessment. ~~Such~~ The assessments ~~shall be~~ are and constitute liens

for the benefit of the resort area district or the trustee, for the benefit of bondholders if assessment bonds are issued by the resort area district, upon the respective lots and parcels of land assessed and ~~shall~~ have priority over all other liens except: ~~to those~~ (1) Any liens for land taxes due the state, county, and municipality; and except (2) any liens for preexisting special assessments provided under this code; and (3) any liens by a lien creditor, including, without limitation, any lien creditor secured by a deed of trust lien, with respect to any of the lots or parcels of land with a lien properly recorded with the Clerk of the County Commission of the county in which the lots or parcels of land are located prior to the time that the notice of the assessment lien is recorded. If any assessment is revised in accordance with this article, the lien created by this section ~~shall extend~~ extends to the revised assessment ~~so revised~~ and ~~shall have~~ has the same priority as the priority of the lien created upon the laying of the original assessment. ~~Such~~ The assessments and interest thereon shall be paid by the owners of the property assessed as and when the installments are due. Following the payment in full of any assessment bonds including any interest thereon, the ~~chairman~~ chair and secretary of the board shall execute a release of all liens and shall certify the ~~same to~~ release to the county clerk for recondition.

(b) Following the grant of any assessment on property as provided in this article, the seller of ~~such~~ the property shall provide reasonable disclosure to the buyer in the real estate contract that an assessment has been granted on the property, the amount of the assessment, and the duration of the assessment.

The bill (Eng. H. B. 4529), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4544**, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 4. OFFENSES AND PENALTIES.**

**§60A-4-406. Distribution to persons under the age of 18 by persons over the age of 21; distribution by persons 18 or over in, on, or within 1,000 feet of, school or college; distribution by persons 18 or over in, on, or within 200 feet of a public library; increasing mandatory period of incarceration prior to parole eligibility.**

(a) Notwithstanding any other provision of law to the contrary, a person is ineligible for parole for a period of three years if he or she is sentenced to the custody of the Commissioner of Corrections and Rehabilitation, for service of a sentence of incarceration and is convicted of a felony violation under the provisions of §60A-4-401(a)(i) of this code for distribution of a controlled substance and:

(1) Is 21 years of age or older at the time of the distribution upon which the conviction is based, and the person to whom the controlled substance was distributed was under the age of 18 years at the time of the distribution; ~~or~~

(2) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 1,000 feet of, the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university in this state; or

(3) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 200 feet of, the real property comprising a public library in this state.

(b) Notwithstanding any other provision of law to the contrary, a person is ineligible for parole for a period of two years if he or she is sentenced to the custody of the Commissioner of Corrections and Rehabilitation, for service of a sentence of incarceration and is

convicted of a felony violation under the provisions of §60A-4-401(a)(ii) of this code for distribution of a controlled substance and:

(1) Is 21 years of age or older at the time of the distribution upon which the conviction is based, and the person to whom the controlled substance was distributed was under the age of 18 years at the time of the distribution; ~~or~~

(2) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 1,000 feet of, the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university in this state; or

(3) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 200 feet of, the real property comprising a public library in this state.

(c) The existence of any fact which would make any person subject to the provisions of this section may not be considered unless the fact is clearly stated and included in the indictment or presentment by which the person is charged and is either:

(1) Found by the court upon a plea of guilty or nolo contendere;

(2) Found by the jury, if the matter be tried before a jury, upon submission to the jury of a special interrogatory for such purpose; or

(3) Found by the court, if the matter be tried by the court without a jury.

(d) Nothing in this section ~~shall be construed to limit~~ limits the sentencing alternatives made available to circuit court judges under other provisions of this code.

The bill (Eng. Com. Sub. for H. B. 4544), as amended, was then ordered to third reading.

**Eng. House Bill 4551**, Relating to subsidized adoption.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Select Committee on Children and Families, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 4. COURT ACTIONS.**

##### **§49-4-112. Subsidized adoption and legal guardianship; conditions.**

(a) From funds appropriated to the Department of Health and Human Resources, the secretary shall establish a system of assistance for facilitating the adoption or legal guardianship of children. An adoption subsidy shall be available for children who are legally free for adoption and who are dependents of the department. ~~or a child welfare agency licensed to place children for adoption.~~ A legal guardianship subsidy may not require the surrender or termination of parental rights. For either subsidy, the children must be in special circumstances because one or more of the following conditions inhibit their adoption or legal guardianship placement:

- (1) They have ~~a physical or mental disability;~~ special needs;
- (2) ~~They are emotionally disturbed;~~
- (3) ~~(2)~~ They are older children;
- (4) ~~(3)~~ They are a part of a sibling group; or
- (5) ~~(4)~~ They are a member of a ~~racial or ethnic~~ minority.

(b)(1) The department shall provide assistance in the form of subsidies or ~~other~~ services to parents who are found and approved for adoption or legal guardianship of a child certified as eligible for subsidy by the department, but before the final decree of adoption or order of legal guardianship is entered, there ~~must~~ shall be a

written agreement between the family entering into the subsidized adoption or legal guardianship and the department.

(2) Adoption or legal guardianship subsidies in individual cases may commence with the adoption or legal guardianship placement and will vary with the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for ~~special services, only, or for~~ money payments, ~~and either~~ for a limited period, or for a long term, or for any combination of the foregoing.

(3) The specific financial terms of the subsidy shall be included in the agreement between the department and the adoptive parents or legal guardians. The agreement may recognize and provide for direct payment by the department of attorney's fees to an attorney representing the adoptive parent or legal guardian. Any such payment for attorney's fees shall be made directly to the attorney representing the adoptive parent or legal guardian.

(4) The amount of the ~~time limited or long term~~ subsidy may in no case exceed that which would be allowable ~~from time to time~~ for the child under foster family care or, in the case of a ~~special~~ service, the reasonable fee for the service rendered.

(5) ~~In addition,~~ The department shall provide either Medicaid or other health insurance coverage for any special needs child for whom there is an adoption or legal guardianship assistance agreement, ~~and between the department and the adoptive parent or legal guardian~~ and who the department determines cannot be placed ~~with an adoptive parent or legal guardian~~ without medical assistance. ~~because the child has special needs for medical, mental health, or rehabilitative care.~~

(c) ~~After reasonable efforts have been made without the use of subsidy and no appropriate adoptive family or legal guardian has been found for the child, the~~ The department shall certify the child as eligible for a subsidy to obtain ~~in the event of~~ adoption or a legal guardianship. ~~Reasonable efforts to place a child without a subsidy shall not be required if it is in the best interest of the child. because of the factors as the existence of significant emotional ties~~

~~developed between the child and the prospective parent or guardian while in care as a foster child.~~

~~(d) If the child is the dependent of a voluntary licensed child-placing agency, that agency shall present to the department evidence of the inability to place the child for adoption or legal guardianship without the use of subsidy or evidence that the efforts would not be in the best interests of the child. In no event may the value of the services and assistance provided by the department under an agreement pursuant to this section exceed the value of assistance available to foster families in similar circumstances.~~

(d) All records regarding subsidized adoptions or legal guardianships are to be held in confidence; however, records regarding the payment of public funds for subsidized adoptions or legal guardianships shall be available for public inspection provided they do not directly or indirectly identify any child or person receiving funds for the child.

(e) A payment may not be made to adoptive parents or legal guardians of child:

(1) Who has attained 18 years of age, unless the department determines that the child has a special need which warrants the continuation of assistance or the child is continuing his or her education or actively engaging in employment;

(2) Who has obtained 21 years of age;

(3) Who has not attained 18 years of age, if the department determines that the adoptive parent or legal guardian is no longer supporting the child by performing actions to maintain a familial bond with the child.

(f) Adoptive parents and legal guardians who receive subsidy payments pursuant to this section shall keep the department informed of circumstances which would, pursuant to §49-4-112(e) of this code, make them ineligible for the payment.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4551) was laid over one day, retaining

its place on the calendar, with the Select Committee on Children and Families amendment pending.

**Eng. House Bill 4559**, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

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 2. LIMITATIONS OF ACTIONS AND SUITS.**

### **§55-2-15. Special and general savings as to persons under disability.**

(a) A personal action for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged, shall be brought against the perpetrator of the sexual assault or sexual abuse, within ~~four~~ 18 years after reaching the age of majority. or within four years after discovery of the sexual assault or sexual abuse, whichever is longer. A personal action for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged shall be brought against a person or entity which aided, abetted, or concealed the sexual assault or sexual abuse within 18 years after reaching the age of majority.

(b) If any person to whom the right accrues to bring any personal action other than an action described in subsection (a) of this section, suit, or scire facias, or any bill to repeal a grant, shall be, at the time the same accrues, an infant or insane, the same may be brought within the like number of years after his or her becoming of full age or sane that is allowed to a person having no such impediment to bring the same after the right accrues, or after such acknowledgment as is mentioned in §55-2-8 of this this code,



except that it shall in no case be brought after 20 years from the time when the right accrues.

(c) The amendments to this section enacted during the 2020 Regular Session of the Legislature are intended to extend the statute of limitations for all actions whether or not an earlier established period of limitation has expired.

The bill (Eng. H. B. 4559), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4576**, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages.

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 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.**

#### **§36-3-11. Correcting errors in deeds, deeds of trust, and mortgages; affidavit.**

(a) **Definitions.** As used in this section, unless the context requires a different meaning:

(1) “Attorney” means any person licensed as an attorney in West Virginia by the West Virginia State Bar.

(2) “Corrective affidavit” means an affidavit of an attorney correcting an obvious description error.

(3) “Local entity” means any county, city, town, municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation, or other

corporation organized and existing under the laws of the State of West Virginia.

(4) “Obvious description error” means an error in a real property parcel description contained in a recorded deed, deed of trust, or mortgage where:

(A) The parcel is identified and shown as a separate parcel on a recorded subdivision plat;

(B) The error is apparent by reference to other information on the face of the deed, deed of trust, or mortgage, or on an attachment to the deed, deed of trust, or mortgage, or by reference to other instruments in the chain of title for the property conveyed thereby; and

(C) The deed, deed of trust, or mortgage recites elsewhere the parcel’s correct address or tax map identification number.

(D) An “obvious description error” includes:

(i) An error transcribing courses and distances, including the omission of one or more lines of courses, and distances or the omission of angles and compass directions;

(ii) An error incorporating an incorrect recorded plat or a deed reference;

(iii) An error in a lot number or designation; or

(iv) An omitted exhibit supplying the legal description of the real property thereby conveyed.

(E) An “obvious description error” does not include:

(i) Missing or improper signatures or acknowledgments; or

(ii) Any designation of the type of tenancy by which the property is owned or whether or not a right of survivorship exists.

(5) “Recorded subdivision plat” means a plat that has been prepared by a professional land surveyor licensed pursuant to W.

Va. Code §30-13A-1 et seq. of this code and recorded in the clerk's office of the circuit court for the jurisdiction where the property is located.

(6) "Title insurance" has the same meaning as set forth in W. Va. §33-1-10(f)(4) of this code.

(7) "Title insurance company" means the company that issued a policy of title insurance for the transaction in which the deed, deed of trust, or mortgage needing correction was recorded.

(b) Obvious description errors in a recorded deed, deed of trust, or mortgage purporting to convey or transfer an interest in real property may be corrected by recording a corrective affidavit in the office of the clerk of the county commission of the county where the property is situated or where the deed, deed of trust, or mortgage needing correction was recorded. A correction of an obvious description error shall not be inconsistent with the description of the property in any recorded subdivision plat.

(c) Prior to recording a corrective affidavit, notice of the intent to record the corrective affidavit, of each party's right to object to the corrective affidavit, and a copy of the corrective affidavit shall be served upon:

(1) All parties to the deed, deed of trust, or mortgage, including the current owner of the property;

(2) The attorney who prepared the deed, deed of trust, or mortgage, if known and if possible;

(3) To the title insurance company, if known;

(4) To the adjoining property owners;

(5) To the property address for the real property conveyed by the deed, deed of trust, or mortgage needing correction;

(6) If a local entity is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection, to the county, city, or town attorney for the local entity,

if any, and if there is no such attorney, then to the chief executive for the local entity. For the purposes of this section, the term “party” includes any local entity that is a signatory; and

(7) If the State of West Virginia is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection, to the Attorney General and to the director, chief executive officer, or head of the state agency or chairman of the board of the state entity in possession or that had possession of the property.

(d) The notice and a copy of the affidavit shall be delivered by personal service, sent by certified mail, return receipt requested, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the last known address of each party to the deed, deed of trust, or mortgage to be corrected that:

(1) Is admitted to record in the office of the clerk of the county commission of the county in which the property is situate and where the deed, deed of trust, or mortgage needing correction was recorded;

(2) Is contained in the deed, deed of trust, or mortgage needing correction;

(3) Has been provided to the attorney as a forwarding address; or

(4) Has been established with reasonable certainty by other means and to all other persons and entities to whom notice is required to be given.

(e) If no written objection is received from any party disputing the facts recited in the affidavit or objecting to its recordation within 30 days after personal service, or receipt of confirmation of delivery of the notice and copy of the affidavit, the attorney may record the corrective affidavit, and all parties to the deed, deed of trust, or mortgage are bound by the terms of the affidavit.

(f) The corrective affidavit shall:

(1) Be notarized;

(2) Contain a statement that no objection was received from any party within the specified time period;

(3) Confirm that a copy of the notice was sent to all the parties; and,

(4) Contain the attorney's West Virginia State Bar number.

(g) A corrective affidavit recorded pursuant to this section operates as a correction of the deed, deed of trust, or mortgage and relates back to the date of the original recordation of the deed, deed of trust, or mortgage as if the deed, deed of trust, or mortgage was correct when first recorded.

(h) A title insurance company, upon request, shall issue an endorsement to reflect the corrections made by the corrective affidavit and shall deliver a copy of the endorsement to all parties to the policy who can be found.

(i) The clerk shall record the corrective affidavit in the deed book or other book in which deeds are recorded in the county and, notwithstanding their designation in the deed, deed of trust, or mortgage needing correction, index the corrective affidavit in the names of the parties to the deed, deed of trust, or mortgage as grantors and grantees as set forth in the corrective affidavit. A corrective affidavit recorded in compliance with this section is prima facie evidence of the facts stated in the corrective affidavit.

(j) Costs associated with the recording of a corrective affidavit pursuant to this section shall be paid by the party that records the corrective affidavit.

(k) Any person who wrongfully or erroneously records a corrective affidavit is liable for actual damages sustained by any party due to the recordation, including reasonable attorney fees and costs.

(l) The remedies under this section are not exclusive and do not abrogate any right or remedy under the laws of the State of West Virginia other than this section.

(m) A corrective affidavit under this section may be made in the following form, or to the same effect:

**Corrective Affidavit**

This affidavit, prepared pursuant to West Virginia Code §36-3-11, shall be indexed in the names of ..... (grantor(s)) whose addresses are ..... and ..... (grantee(s)), whose addresses are ..... The undersigned affiant, being first duly sworn, deposes and states as follows:

1. That the affiant is a West Virginia attorney.

2. That the deed, deed of trust, or mortgage needing correction was made in connection with a real estate transaction in which ..... purchased real estate from ....., as shown in a deed recorded in the office of the clerk of the county commission of ..... County, West Virginia, in Deed Book ....., Page ....., or as Instrument Number ....; or in which real estate was encumbered, as shown in a deed recorded in the office of the clerk of the county commission of ..... County, West Virginia, in Deed Book ....., Page ....., or as Instrument Number .....

3. That the property description in the aforementioned deed, deed of trust, or mortgage contains an obvious description error.

4. That the property description containing the obvious description error reads:

.....

.....

5. That the correct property description should read:

.....

.....

6. That this affidavit is given pursuant to West Virginia Code §36-3-11 to correct the property description in the aforementioned deed, deed of trust, or mortgage, and such description shall be as stated in paragraph 5 above upon recordation of this affidavit in the office of the clerk of the county commission of ..... County, West Virginia.

7. That notice of the intent to record this corrective affidavit and a copy of this affidavit was delivered to all parties to the deed, deed of trust, or mortgage being corrected pursuant to West Virginia Code §36-3-1 and that no objection to the recordation of this affidavit was received within the applicable period of time as set forth in West Virginia Code §36-3-1.

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)

The foregoing affidavit was acknowledged before me

This ..... day of ....., 20...., by

.....

Notary Public

My Commission expires .....

Notary Registration Number: .....

(n) Notice under this section may be made in the following form, or to the same effect:

**Notice of Intent to Correct an Obvious Description Error**

Notice is hereby given to you concerning the deed, deed of trust, or mortgage described in the corrective affidavit, a copy of which is attached to this notice, as follows:

1. The attorney identified below has discovered or has been advised of an obvious description error in the deed, deed of trust, or mortgage recorded as part of your real estate settlement. The error is described in the attached affidavit.

2. The undersigned will record an affidavit to correct such error unless the undersigned receives a written objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your objections must be sent within 30 days of receipt of this notice to the following address:

.....

(Address)

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)



The bill (Eng. Com. Sub. for H. B. 4576), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4620**, Redefining definition of “recovery residence”.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4647**, Relating to limited video lottery permit holders.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4729**, Requiring higher education institutions to use previous versions or editions of instructional materials.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4773**, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 5AA. SCREENING PROTOCOLS FOR  
ADVERSE CHILDHOOD EXPERIENCES.**

**§16-5AA-1. Development of Screening Protocols for Adverse  
Childhood Experiences.**

(a) The Commissioner of the Bureau for Public Health may form a workgroup to conduct a study of adverse childhood experiences and their impact on the people of West Virginia. The workgroup may be comprised of the following members:

(1) The Commissioner of the Bureau of Children and Families, or his or her designee;

(2) The Dean of the West Virginia University School of Medicine, or his or her designee;

(3) The Dean of the Marshall University Joan C. Edwards School of Medicine, or his or her designee;

(4) The Dean of the West Virginia School of Osteopathic Medicine, or his or her designee;

(5) The Executive Director of the West Virginia Herbert Henderson Office of Minority Affairs, or his or her designee;

(6) The Director of the Office of Maternal, Child and Family Health, or his or her designee;

(7) Up to three representatives of primary care providers chosen by the West Virginia Primary Care Association;

(8) Up to three representatives of behavioral healthcare providers chosen by the West Virginia Behavioral Healthcare Providers Association;

(9) Up to two members chosen by the Adverse Childhood Experiences Coalition of West Virginia;

(10) One member chosen by the West Virginia Rural Health Association;

(11) One member chosen by the West Virginia Hospital Association;

(12) One member chosen by the West Virginia Nurses Association;

(13) One member chosen by the West Virginia Chapter of the American Academy of Pediatrics;

(14) One member chosen by the West Virginia State Medical Association;

(15) One member chosen by the West Virginia Osteopathic Medical Association;

(16) One member chosen by the West Virginia Academy of Family Physicians;

(17) One member chosen by the West Virginia Association of Physician Assistants;

(18) One member chosen by the West Virginia Association of School Nurses;

(19) One member representing parents chosen by the West Virginia Circle of Parents Network;

(20) One member chosen by the West Virginia Foster, Adoptive and Kinship Network;

(21) The Commissioner of the Bureau for Behavioral Health, or his or her designee;

(22) One representative of the West Virginia Defending Childhood Initiative, commonly referred to as "Handle With Care," chosen by the West Virginia Children's Justice Task Force;

(23) One member chosen by the West Virginia Chapter of the National Association for the Advancement of Colored People; and

(24) The West Virginia State Superintendent of Schools, or his or her designee.

(b) The Commissioner of the Bureau for Public Health may designate additional persons who may participate in the meetings of the workgroup; *Provided*, That any such person must be the administrative head of the office or division whose functions necessitate his or her inclusion in this process.

(c) The workgroup may develop recommended guidance, tools, and protocols for primary health care practitioners to undertake the following:

(1) Provide information to patients regarding the impact of adverse and positive childhood experiences on physical and mental health, and the risks and benefits of screening patients for adverse child experiences;

(2) Screen patients for adverse child experiences, childhood trauma, and positive childhood experiences that may impact a patient's physical or mental health or the provision of health care services to the patient; and

(3) Within the context of a comprehensive systems approach, provide clinical response that medical providers should follow after screening, such as:

(A) Applying principles of trauma-informed care;

(B) Identification and treatment of adverse childhood experiences and associated health conditions;

(C) Patient education about toxic stress and buffering interventions, including supportive relationships, mental health treatment, exercise, sleep hygiene, healthy nutrition, and mindfulness and meditation practices;

(D) Validation of existing strengths and protective factors;

(E) Referral to patient resources which may include, but are not limited to, counseling and treatment programs, community-based medical and non-medical resources, and family support programs; and

(F) Follow-up as necessary.

(d) The workgroup may develop recommendations for education and training requirements to be completed for administering the screening process, trauma-informed care, and clinical response as described in this section.

(e) The Bureau for Public Health may provide staff for the workgroup. The workgroup may schedule one public hearing in each of the congressional districts in West Virginia as it relates to the screening protocols for adverse childhood experiences. The workgroup may develop and approve a final report by June 30, 2021, and a copy may be submitted to the Joint Committee on Government and Finance of the Legislature and the Governor. The workgroup will sunset on March 31, 2022.

(f) The Bureau for Public Health may develop screening protocols for adverse childhood experiences and make recommendations in a report to be submitted to the Governor no later than December 31, 2021: *Provided*, That prior to submission, the bureau may present its proposed screening protocols for adverse childhood experiences to the Legislative Oversight Committee on Health and Human Resources within 90 days after development of the drafts and prior to submission of the final protocols to the Governor. The Legislative Oversight Committee on Health and Human Resources shall have 90 days to review the standards and provide input to the bureau, which shall consider such input when developing the final standards for submission to the Governor. Upon submission to the Governor, the report may be distributed to all health care provider organizations in the state for consideration for adoption.

(g) Any screening protocols for adverse childhood experiences drafted pursuant to this section shall not become effective until on or after March 31, 2021.

The bill (Eng. Com. Sub. for H. B. 4773), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4925**, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Rucker, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules ~~and regulations~~ by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.**

(a) The county boards of education ~~are hereby granted and~~ shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of ~~said~~ those schools of their respective counties. The county board of education may delegate ~~such~~ control, supervision, and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission. ~~which is hereby established~~

(b) The West Virginia Secondary School Activities Commission ~~shall be~~ is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to ~~said~~ the commission. The West Virginia Secondary School Activities Commission ~~is hereby empowered to~~ may exercise the control, supervision, and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules ~~and regulations~~ of the West Virginia Secondary School Activities Commission shall contain a provision for a proper

review procedure and review board and be promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County boards of education ~~are hereby authorized to~~ may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to ~~such~~ the commission, as well as moneys derived from any contest or other event sponsored by ~~said~~ the commission, ~~shall be~~ are quasi-public funds as ~~the same~~ are defined in §18-5-1 *et seq.* of this code, and ~~such~~ the funds of the commission ~~shall be~~ are subject to an annual audit by the State Tax Commissioner.

(c) The West Virginia Secondary School Activities Commission shall promulgate reasonable rules ~~and regulations~~ providing for the control, supervision, and regulation of the interscholastic athletic events and other extracurricular activities of ~~such~~ private and parochial secondary schools as elect to delegate to ~~such~~ the commission ~~such~~ control, supervision, and regulation, upon the same terms and conditions, subject to the same ~~regulations~~ rules and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code and who:

(1) Has demonstrated satisfactory evidence of academic progress for one year in compliance with the provisions of that

subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

(2) Is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home-schooled student lives and the State Board;

(3) Has not reached the age of 19 by August 1 of the current school year;

(4) Is an amateur who receives no compensation but participates solely for the educational, physical, mental and social benefits of the activity;

(5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the home-schooled student lives; and

(6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: *Provided*, That home-schooled students who leave a member school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

(e) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the



preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.

The bill (Eng. Com. Sub. for H. B. 4925), as amended, was then ordered to third reading.

**Eng. House Bill 4955**, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Senate Bill 854**, Expiring funds to Division of Culture and History from Auditor's Office, Purchasing Card Administration Fund.

**Senate Bill 855**, Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor's Office, Purchasing Card Administration Fund.

And,

**Eng. House Bill 4409**, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Lindsay, Plymale, and Blair.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 1:52 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:35 p.m. and, without objection, returned to the third order of business.

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on March 2, 2020, he had approved **Enr. Committee Substitute for Senate Bill 16, Enr. Committee Substitute for Senate Bill 35, Enr. Senate Bill 300, Enr. Senate Bill 310, Enr. Senate Bill 321, Enr. Committee Substitute for Senate Bill 676, and Enr. House Bill 4007.**

The Senate again 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 2nd day of March, 2020, 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:

**(H. B. 4149)**, Relating to insurance.

**(H. B. 4359)**, Modifying the filing fees for insurers.

And,

**(H. B. 4501)**, Relating to the ability to refuse offenders for commitment to a jail.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

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 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

And,

**Eng. Com. Sub. for House Bill 4892**, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold.

And reports the same back with the recommendation that they each 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 4009**, Relating to the process for involuntary hospitalization.

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 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 4102**, Relating to opioid antagonists.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Cline, from the Committee on Interstate Cooperation, submitted the following report, which was received:

Your Committee on Interstate Cooperation has had under consideration

**Eng. House Bill 4375**, Speech-Language Pathologists and Audiologists Compact.

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 Health and Human Resources.

Respectfully submitted,

Sue Cline,  
*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 Interstate Cooperation.

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 4494**, Tobacco Use Cessation Initiative.

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,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4494) 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.

Senator Hamilton, 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 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. Com. Sub. for House Bill 4543**, Relating to insurance coverage for diabetics.

And reports the same back without recommendation as to passage; but with the recommendation that it first be referred to the Committee on Health and Human Resources; and then, under the original double committee reference, to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4543) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, and ordered to second reading.

At the further request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Health and Human Resources, and then, under the original double committee reference, to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4573**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

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 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 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 4958**, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs.

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.*

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:43 p.m., the Senate adjourned until tomorrow, Tuesday, March 3, 2020, at 11 a.m.

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## TUESDAY, MARCH 3, 2020

The Senate met at 11:15 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Dr. Michael Sisson, Executive Minister, West Virginia Baptist Convention, Parkersburg, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Pending the reading of the Journal of Monday, March 2, 2020,

At the request of Senator Pitsenbarger, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

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 6**, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Com. Sub. for Senate Bill 96**, Prohibiting municipalities from limiting persons' rights to possess certain weapons.

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 201**, Relating generally to criminal offenses of stalking and harassment.

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:

## **ARTICLE 2. CRIMES AGAINST THE PERSON.**

### **§61-2-9a. Harassment; penalties; definitions.**

~~(a) Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or suffer significant emotional distress, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than \$1,000, or both.~~

(a) Any person who engages in a course of conduct directed at another person with the intent to cause the other person to fear for his or her personal safety, the safety of others, or suffer substantial emotional distress, or causes a third person to so act, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, confined in jail for not more than six months, or both fined and confined.

(b) Any person who ~~repeatedly~~ harasses or repeatedly makes credible threats against another is guilty of a misdemeanor and, upon conviction thereof, shall be ~~incarcerated~~ confined in the ~~county or regional~~ jail for not more than six months, or fined not more than \$1,000, or both fined and confined.

(c) Notwithstanding any provision of this code to the contrary, any person who violates the provisions of subsection (a) or (b) of this section in violation of an order entered by a circuit court, magistrate court, or family court judge, in effect and entered pursuant to §48-5-501, §48-5-601, or §48-27-403 of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be ~~incarcerated~~ confined in the ~~county~~ jail for not less than 90 days nor more than one year, or fined not less than \$2,000 nor more than \$5,000, or both fined and confined.

(d) A second or subsequent conviction for a violation of subsection (a) or (b) of this section occurring within five years of a prior conviction is a felony punishable by ~~incarceration~~ imprisonment in a state correctional facility for not less than one year nor more than five years, or fined not less than \$3,000 nor more than \$10,000, or both fined and ~~confined~~ imprisoned.

(e) Notwithstanding any provision of this code to the contrary, any person against whom a protective order is in effect for injunctive relief pursuant to the provisions of §48-5-608 or §48-27-501 of this code, who has been served with a copy of said order, who commits a violation of the provisions of this section, in which the subject in the protective order is the victim, shall be guilty of a felony and, upon conviction thereof, be imprisoned in a state correctional facility for not less than one year nor more than five

years, or fined not less than \$3,000 nor more than \$10,000, or both fined and imprisoned.

(f) Notwithstanding any provision of this code to the contrary, any person against whom a protective order is in effect pursuant to the provisions of §53-8-7 of this code, who has been previously served with a copy of said order, who commits a violation of the provisions of this section, in which the subject in the protective order is the victim, is guilty of a felony and punishable by imprisonment in a state correctional facility for not less than one year nor more than five years, or fined not less than \$3,000 nor more than \$10,000, or both fined and confined.

(g) Notwithstanding any provision of this code to the contrary, any person who harasses another person with the intent to cause the person to physically injure himself or herself, or to take his or her own life, or who continues to harass another, knowing or having reason to know that the person is likely to physically injure himself or herself, or to take his or her own life based, in whole or in part, on such harassment, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two years nor more than 10 years.

(f) (h) For the purposes of this section:

(1) “Bodily injury” means substantial physical pain, illness, or any impairment of physical condition;

(2) “Course of conduct” means a pattern of conduct composed of two or more acts in which a defendant directly, indirectly, or through a third party by any action, method, device, or means:

(A) Follows, monitors, observes, surveils, or threatens a specific person or persons;

(B) Engages in other non-consensual contact and/or communications, including contact through electronic communication, with a specific person or persons; or

(C) Interferes with or damages a person’s property or pet.

(2) (3) “Credible threat” means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;

(3) (4) “Harasses” means a willful course of conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress and which serves no legitimate or lawful purpose;

(4) (5) “Immediate family” means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household; and

(5) (6) “Repeatedly” means on two or more occasions.

(h) (i) Any person convicted under the provisions of this section who is granted probation or for whom execution or imposition of a sentence or incarceration is suspended, ~~is to~~ shall have as a condition of probation or suspension of sentence that he or she participate in counseling or medical treatment as directed by the court.

(i) (j) Upon conviction, the court may issue an order restraining the defendant from any contact with the victim for a period not to exceed 10 years. The length of any restraining order shall be based upon the seriousness of the violation before the court, the probability of future violations, and the safety of the victim or his or her immediate family. The duration of the restraining order may be longer than five years only in cases when a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(j) (k) It is a condition of bond for any person accused of the offense described in this section that the person is to have no contact, direct or indirect, verbal or physical, with the alleged victim.

~~(k)~~ (l) Nothing in this section may be construed to preclude a sentencing court from exercising its power to impose home confinement with electronic monitoring as an alternative sentence.

(j) (m) The Governor's Committee on Crime, Delinquency, and Correction, after consultation with representatives of labor, licensed domestic violence programs, and rape crisis centers which meet the standards of the West Virginia Foundation for Rape Information and Services, is authorized to promulgate legislative rules and emergency rules pursuant to §29A-3-1 *et seq.* of this code, establishing appropriate standards for the enforcement of this section by state, county, and municipal law-enforcement officers and agencies.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 201, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 201) 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 of

**Eng. Com. Sub. for Senate Bill 232**, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers.

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 649**, Permitting county emergency phone system directors negotiate contracts for mobile phones.

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. Senate Bill 849**, Relating to military service as factor in certain insurance coverage rates.

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 the following:

## **ARTICLE 6. THE INSURANCE POLICY.**

### **§33-6-40. Military service as factor in insurance rates.**

No person may charge an increased premium for reinstating any fire insurance contract, marine insurance contract, or casualty insurance contract that was cancelled or suspended by an insured solely as a result of their performance of military duty as a member of the United States Armed Forces or as a member of the reserve component of the United States Armed Forces, to include the National Guard of any state or territory. No person may charge an increased premium for a new fire insurance contract, marine

insurance contract, or casualty insurance contract if the applicant for coverage or his or her covered dependents were previously insured with a different insurer and cancelled that policy solely as a result of their performance of military duty as a member of the United States Armed Forces or as a member of the reserve component of the United States Armed Forces, to include the National Guard of any state or territory. For the purposes of this section, service in the National Guard includes any full-time active duty for annual training in the National Guard, inactive duty training, active duty operational support, active duty special work, funeral honors, state active duty as a member of a National Guard unit, or any other periods of service pursuant to Title 32 of the United States Code, or active service of any state or territory. For purposes of determining premiums, an insurer shall consider such persons as having maintained continuous coverage.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 849**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates; prohibiting an insurance company from increasing premiums while reinstating an insurance contract that was previously cancelled or suspended due to the military service of the insured; prohibiting an insurer from charging an increased premium for a new insurance contract when the applicant has had a policy from another insurer terminated as a result of military service; defining service with the National Guard; and requiring insurers to deem persons who have had an insurance policy suspended or terminated due to military service as having maintained continuous coverage.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 849) were reported by the Clerk and considered simultaneously:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 6. THE INSURANCE POLICY.**

**§33-6-40. Military service as factor in insurance rates**

With respect to any fire, marine, or casualty insurance contract, no person may deny, refuse to renew, cancel coverage, or charge increased premiums for applicants or insureds solely as a result of a uniformed service member's performance of active military duty in the United States Armed Forces or as a member of a reserve component of the United States Armed Forces, to include the National Guard of a state or territory, because the uniformed service member fails to meet underwriting standards that require continuous coverage unless the failure to maintain continuous coverage existed prior to the applicant's or insured's entry into active duty status and was not related in any way to the applicant's or insured's military service. For the purposes of this section, service in the National Guard includes any full-time active duty for training in the National Guard, active duty operational support, active duty special work, state active duty as a member of a National Guard unit, or any other periods of service pursuant to Title 32 of the United States Code or active service of the state or territory. For purposes of determining premiums, an insurer shall consider such persons as having maintained continuous coverage.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 849**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates generally; prohibiting an insurance company from increasing premiums when reinstating an insurance contract or writing a new policy that was previously cancelled or suspended due to active duty military service of the



insured; defining terms; and creating presumption of continuous coverage when lapse occurs while insured is on active duty.

Following discussion,

The question being on the adoption of Senator Takubo's amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 849, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 849) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 849) takes effect from passage.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the fourth order of business.

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 4020**, Removing authority of municipalities to require occupational licensure if licensure for the occupation is required by the state.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4020) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4061**, Health Benefit Plan Network Access and Adequacy Act.

With amendments from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4061) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4108**, Relating generally to certificates of need for health care services.

And has amended same.

**Eng. House Bill 4354**, Adding nabiximols to the permitted list of distributed and prescribed drugs.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4395**, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4108 and 4395, and Eng. H. B. 4354) contained in the preceding report from the Committee on Health and Human Resources were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4159**, Relating to the manufacture and sale of hard cider.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4159) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4361**, Relating to insurance law violations.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4361) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4524) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4557**, Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4557) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4668**, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4668) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4777**, Relating to the right of disposition of remains.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4777) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Romano and Facemire offered the following resolution:

**Senate Concurrent Resolution 57**—Requesting the Division of Highways name bridge number 17-034/00-000.01 (17A296), locally known as the Laurel Park Truss, carrying County Route 34 over the West Fork River in Harrison County, the “Frye Brothers Memorial Bridge”.

Whereas, Three of four Frye brothers served in World War II, with one brother killed in action; and

Whereas, The oldest Frye brother, Thomas, was not allowed to enlist because he worked in the defense industry and would have been his widowed mother's sole source of support if his younger brothers were all killed; and

Whereas, Kermit C. Frye was drafted in 1940 and served as a Navy Seaman Second Class; and

Whereas, Kermit C. Frye was killed in action with his body "lost at sea" after the East Indian motor merchant ship was torpedoed and sunk off the coast of South Africa on November 3, 1942; and

Whereas, Kermit C. Frye was awarded a posthumous Purple Heart and memorialized with a cross at the North Africa American Cemetery in Carthage, Tunisia; and

Whereas, Richard G. Frye was drafted in 1942 and served as Army Private First Class, fighting in both Africa and Germany; and

Whereas, Harold Q. Frye, known as "Red" due to the color of his hair, was drafted in 1942 and served as a Private First Class cannoner in the 119th Field Artillery Division of the 9th Army; and

Whereas, Harold Q. Frye jumped into the icy waters off Normandy, surrounded by the bodies of dead comrades, making it safely to shore despite a severe asthma attack and carrying a 90-pound pack while fellow soldier Dale Crim shouted, "Swim, Frye! Swim, dammit!" and, later, Crim told Frye's daughter that the experience was so traumatic that most soldiers never spoke of it, but he wanted her to know the bravery her father demonstrated encouraging others to survive; and

Whereas, Harold Q. Frye operated a "Long Tom" gun during the Battle of the Bulge with a commendation from the XIX Corps Artillery headquarters for protecting aircraft, armor, and infantry as soldiers rapidly ran through Germany in pursuit of enemy troops; and



Whereas, Harold Q. Frye received an additional commendation from Lieutenant General W. H. Simpson for taking part in that six-week long bloody battle where approximately 19,000 American troops were killed before crushing the German Army; and

Whereas, Harold Q. Frye returned to Clarksburg after the war and served as a nursing assistant at the VA Hospital in Clarksburg for more than 20 years where he was recognized for saving the life of a patient who was choking, and later retired after being attacked by a psychiatric patient; and

Whereas, It is fitting that an enduring memorial be established to commemorate these valiant brothers and their service 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 17-034/00-000.01 (17A296), locally known as the Laurel Park Truss, carrying County Route 34 over the West Fork River in Harrison County, the “Frye Brothers Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made be placed signs identifying the bridge as the “Frye Brothers 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.

Which, under the rules, lies over one day.

Senator Unger offered the following resolution:

**Senate Resolution 63**—Designating March 4, 2020, as Recovery Community Day at the Capitol.

Whereas, As recently as 2016, there were more than 700 overdose deaths in West Virginia involving the use of at least one opioid; and

Whereas, West Virginia's overdose rate is three times the national average and West Virginia has the highest number of opioid-related deaths per capita in the United States; and

Whereas, As many as 40,000 people nationally, including 4,000 youth, seek treatment for illegal drug use and fail to receive it in any given year; and

Whereas, One in 13 individuals 12 or older, and one in seven young adults age 18-25, needed some form of intervention for substance use annually from 2015-2018; and

Whereas, Statistically, at least one student in every middle school and high school classroom in 2015-2018 needed treatment for substance use; and

Whereas, More than one in six high school students report drinking alcohol for the first time prior to turning 13; and

Whereas, In 2018, Congress enacted Public Law 115-271, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, known as the SUPPORT for Patients and Communities Act to address the nationwide opioid crisis; and

Whereas, A "recovery coach" is defined in the SUPPORT Act as an individual with knowledge of, or experience with, recovery from a substance use disorder who has completed training from, and is in good standing with, a recovery services organization capable of conducting such training and making such a determination; and

Whereas, Recovery coaches assist individuals in recovery by fostering social interactions, sharing experiences, promoting wellness and improved quality of life, improving coping skills, and supporting acceptance of illnesses or life situations; and

Whereas, Youth life/recovery coaches promote recovery by removing barriers and obstacles to social, emotional, and growth mindset learning and serving as personal guides and mentors for

young people who are seeking help with life transitions and their journey to adulthood; and

Whereas, By working with recovery coaches, peers, and others in the community, individuals in recovery are able to establish a connection with society, gain and provide hope for others, counter the associated stigmas, and share the perspectives and truths gained during the journey; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 4, 2020, as Recovery Community Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Recovery Community Day.

Which, under the rules, lies over one day.

Senators Lindsay and Jeffries offered the following resolution:

**Senate Resolution 64**—Recognizing the Kanawha State Forest Foundation for efforts to encourage visitors of every ability to get outside, be active, and enjoy a variety of recreational activities in a forest environment.

Whereas, Camp Kanawha, S-76, was established in 1938 as a project of the Civilian Conservation Corps to provide employment for single young men, to teach skills, and give hope to the American people recovering from the Great Depression; and

Whereas, The Civilian Conservation Corps members built roads, picnic shelters, and the superintendent's residence to help create a premier recreational resource for the public to enjoy decades later; and

Whereas, Original members of the Civilian Conservation Corps established the Kanawha State Forest Foundation in 1989 to help protect, promote, and enhance the forest and its recreational opportunities; and

Whereas, Current members of the Kanawha State Forest Foundation continue to pursue this vision with added emphasis on making Kanawha State Forest more inclusive for all visitors, especially West Virginia natives who have the highest percentage of disabilities in the country; and

Whereas, New Superintendent Chris Bartley shares this vision and strongly supports efforts to upgrade facilities and make Kanawha State Forest more inclusive; and

Whereas, Efforts are underway to expand recreational opportunities for the disabled with the installation of a wheelchair-accessible playground next to the paved Spotted Salamander Trail; and

Whereas, This will be the first playground of its kind in the West Virginia State Parks system; and

Whereas, This playground will include a wheelchair-platform swing installed on a solid pour-in-place foundation so disabled visitors can swing in their wheelchairs; and

Whereas, The playground will also include additional ADA-compliant equipment and a braille activity board to help create an inclusive environment for every visitor; and

Whereas, The Kanawha State Forest Foundation recently celebrated its 30th anniversary and is now a partner with West Virginia University and the statewide Take Back Our Health WV physical activity initiative; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Kanawha State Forest Foundation for efforts to encourage visitors of every ability to get outside, be active, and enjoy a variety of recreational activities in a forest environment; and, be it

*Further Resolved,* That the Senate extends its most sincere gratitude and appreciation to the Kanawha State Forest Foundation for their efforts; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Kanawha State Forest Foundation.

Which, under the rules, lies over one day.

Senators Romano and Facemire offered the following resolution:

**Senate Resolution 65**—Designating the West Virginia State Folk Festival as the home of the official site of the West Virginia State Pepperoni Roll Championship.

Whereas, Girl Scout Cadettes Kendra Fox and Kaydee Martin of Gilmer County Troop 10123 recommend that the West Virginia State Folk Festival would be an excellent venue to establish the Official West Virginia State Pepperoni Roll Championship given the festival's focus on truly West Virginia traditions; and

Whereas, The West Virginia State Folk Festival was established in 1950 by Dr. Patrick Gainer "to preserve the remnants of West Virginia traditional life and culture to the end that citizens may appreciate and respect the achievements of their forbears," and the festival invites pepperoni roll enthusiasts to annually showcase their talents; and

Whereas, The West Virginia State Folk Festival is held in Gilmer County, located in the heart of West Virginia, with thousands of attendees from all over the state, country, and world; and

Whereas, The West Virginia State Folk Festival highlights West Virginia cultural traditions such as storytelling, folk music, quilting talents, square dancing, food, and much more; and

Whereas, The pepperoni roll has been identified to be a West Virginia delicacy that dates back into traditional life and culture in West Virginia's coal mining communities when Italian immigrants moved into north central West Virginia to work in the mines; and

Whereas, In 1987, the pepperoni roll was saved by the intervention of West Virginia's United States Senatorial

Representatives, Jay Rockefeller and Robert C. Byrd, to allow its continued production and sale to the public without unnecessary oversight and regulation; and

Whereas, Beginning on the third Thursday of June each year, the West Virginia State Folk Festival shall be the official home of the West Virginia State Pepperoni Roll Championship in recognition of its contributions to the history of the great State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates the West Virginia State Folk Festival as the home of the official site of the West Virginia State Pepperoni Roll Championship.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 61**, Recognizing Leadership Jefferson.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senate Resolution 61 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:38 a.m., the Senate recessed to present Senate Resolution 61.

The Senate reconvened at 11:42 a.m. and resumed business under the seventh order.

**Senate Resolution 62**, Recognizing October as National Dwarfism Month.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senator Takubo regarding the adoption of Senate Resolution 62 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:46 a.m., the Senate recessed to present Senate Resolution 62.

The Senate reconvened at 11:50 a.m.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. House Bill 4161** and **Eng. Com. Sub. for House Bill 4398**; and from the Senate second reading calendar, **Eng. Com. Sub. for House Bill 4378**, **Eng. Com. Sub. for House Bill 4594**, **Eng. House Bill 4664**, and **Eng. House Bill 4960**.

The Senate proceeded to the eighth order of business.

**Eng. House Bill 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4039) 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 4039**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to providing limitations on nuisance actions against fire department or emergency medical services fixed sirens.

*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 4077**, Increasing the amount of the bond required to be posted by proprietary schools.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4077) passed with its title.



*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Facemire and Lindsay—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4083) passed.

At the request of Senator Clements, as chair of the Committee on Transportation and Infrastructure, and by unanimous consent, the unreported Transportation and Infrastructure committee amendment to the title of the bill was withdrawn.

On motion of Senator Clements, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4083**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-16A-13b, relating to requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls on the West Virginia Turnpike; authorizing cost adjustments to the amount of tolls paid at a toll facility by credit card; clarifying application of the cost adjustment; declaring

cost adjustment not subject to public notice or meeting requirement; and requiring reporting.

*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 4137**, Allowing counties to store and maintain voter registration records in a digital format.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Rucker—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4137) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4217**, Authorizing the Department of Environmental Protection to promulgate legislative rules.

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 4217 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Weld, 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. Com. Sub. for H. B. 4217) 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.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4252) 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 4252**—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Board of Acupuncture to promulgate a legislative rule relating to fees for the Board of Acupuncture; authorizing the Board of Acupuncture to promulgate a legislative rule relating to auricular detoxification therapy certificate; authorizing the Board of Acupuncture to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Acupuncture to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to grade “A” pasteurized milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia manufacture-grade milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule

relating to employment reference and inquiries and background checks; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Spay-Neuter Assistance Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia exempted dairy farms and milk and milk products processing rules; authorizing the Board of Architects to promulgate a legislative rule relating to registration of architects; authorizing the Board of Architects to promulgate a legislative rule relating to fees for registration of architects; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Dentistry to promulgate a legislative rule relating to rule for the West Virginia Board of Dental Examiners; authorizing the Board of Dentistry to promulgate a legislative rule relating to dental advertising; authorizing the Board of Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Dietitians to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Election Commission to promulgate a legislative rule relating to corporate and membership organization political activity; authorizing the Election Commission to promulgate a legislative rule relating to regulation of campaign finance; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board

of Funeral Service Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the Board; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Optometry to promulgate a legislative rule relating to rules for the West Virginia Board of Optometry; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain

initial licensure applicants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Registration for Professional Engineers to promulgate a legislative rule relating to examination, licensure and practice of professional engineers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Board of Psychologists to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule

relating to requirements for licensure and certification; authorizing the Real Estate Commission to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Commission to promulgate a legislative rule relating to consideration of prior criminal convictions in initial license eligibility determination; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to establishment of fees; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to student temporary permit; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Sanitarians to promulgate a legislative rule relating to waiver of initial application fees and criteria for initial licensure; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work to promulgate a legislative rule relating to fee schedule; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to disciplinary and complaint procedures for speech-language pathology and audiology; authorizing the State Auditor to promulgate a legislative rule relating to local government purchasing card program; authorizing the State Conservation Committee to promulgate a legislative rule relating to State Conservation Committee Grant Program; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to registration of veterinary technicians; and authorizing the Board of



Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4252) takes effect from passage.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4352,** Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making.

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, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Romano, and Unger—9.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4352) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4398**, Relating to required courses of instruction.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4434**, West Virginia health care workforce sustainability study.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4434) 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 4464**, Relating to driving privileges and requirements for persons under the age of 18.

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 4464 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4464) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4464**—A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to graduated driver’s licenses; prohibiting holders of level three licenses from using a wireless communication device while operating a motor vehicle and specifying exception; making a violation of level three license terms and conditions subject to criminal penalty provision; and extending validity of level one instruction driver’s permits for active members of the military.

*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 4478**, Creating a lifetime ban for commercial drivers involved in human trafficking.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4478) 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 4478**—A Bill to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended, relating to the lifetime disqualification without reinstatement from operating a commercial motor vehicle for individuals who use a commercial motor vehicle in committing certain felony acts relating to controlled substance violations or human trafficking violations.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4480**, Relating to legislative rules for the Higher Education Policy Commission.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4480) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4504**, Relating to renewal application requirements for individuals with permanent disabilities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4504) passed.

On motion of Senator Clements, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. House Bill 4504**—A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to

application requirements for persons with a mobility impairment for special registration plates and removable windshield placards; modifying meaning of temporary and permanent disability; and providing for limited waiver of disability certification requirement.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4510) 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 4510**—A Bill to amend and reenact §62-8-1 of the Code of West Virginia, 1931, as amended, relating to creating the offense of bodily intrusion by an inmate in the custody of the Commissioner of Corrections and Rehabilitation; defining terms; and establishing criminal penalties.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4529**, Relating to the collection of assessments and the priority of liens on property within a resort area.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4529) 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 4544**, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4544) 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 4544**—A Bill to amend and reenact §60A-4-406 of the Code of West Virginia, 1931, as amended, relating to applying a mandatory period of incarceration prior to parole eligibility to persons 18 years old or over who are convicted of distributing a controlled substance within 200 feet of a public library; and establishing criminal penalties.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4559**, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4559) 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 4559**—A Bill to amend and reenact §55-2-15 of the Code of West Virginia, 1931, as amended, relating to extending the limitation on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor; adding any person or organization which aided, abetted, or concealed the sexual assault or abuse to the extended statute of limitations; allowing victims to initiate actions for sexual assault or sexual abuse against perpetrators only within four years of discovery regardless of age; and clarifying effect of 2020 amendments as to possible actions.

*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 4576**, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4576) 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 4576**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-3-11, relating to establishing a procedure for correcting errors in deeds, deeds of trust and mortgages; providing definitions; establishing that obvious description errors in a recorded deed, deed of trust or mortgage involving the transfer of interest in real property may be corrected by recorded affidavit; requiring that the correction of an obvious description error may not be inconsistent with the recorded property description; requiring notice be sent to specified persons; providing notice delivery requirements; establishing the contents of the corrective affidavit; establishing the effect of the corrective affidavit once filed; requiring a title insurance company to issue an endorsement to reflect the corrective affidavit; requiring the clerk to record and index the corrective affidavit in the deed book; establishing that a recorded affidavit is prima facie evidence of the facts stated therein; requiring associated costs be paid by the recording party; providing that a person who wrongfully records a corrective deed is liable for actual damage, reasonable costs, and attorney fees; providing that remedies under this section are not exclusive; and providing a format for the corrective affidavit and notice of an intent to correct an obvious description error.

*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 4620**, Redefining definition of “recovery residence”.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4620) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4647**, Relating to limited video lottery permit holders.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4647) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4729**, Requiring higher education institutions to use previous versions or editions of instructional materials.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4729) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4773**, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

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 4773 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4773) passed.

The following amendment to the title of the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4773**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5AA-1, relating to creating a workgroup; designating members; authorizing workgroup to develop recommended protocols; authorizing workgroup to develop recommended education and training requirements; authorizing staff; providing for public hearings; providing for report; providing for sunset; authorizing screening protocols; and providing for effective date for screening protocols.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4790**, Relating to Career Technical Education for middle school students.

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 House Bill 4790 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4790) 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 4925**, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

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 4925 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4925) passed.

On motion of Senator Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4925**—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Secondary School Activities Commission; providing for participation by home schooled students in extracurricular activities; setting forth eligibility requirements for home schooled students to participate in extracurricular activities at member schools under certain circumstances; providing that member-to-member transfer

protocols apply and providing that reasonable fees may be charged; and requiring the West Virginia Secondary School Activities Commission to recognize certain preparatory athletic programs as nonparticipating members of the commission solely for the purpose of competing on the national level.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4955**, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4955) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Senate Bill 854**, Expiring funds to Division of Culture and History from Auditor's Office, Purchasing Card Administration Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 855**, Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor's Office, Purchasing Card Administration Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 856**, Expiring funds from WV Development Office, Synthetic Fuel, Producing County Fund to Market and Communications Operating Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 2892**, Including digital and virtual information in the definition of property that can be searched and seized by a warrant.

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 1A. SEARCH AND SEIZURE.**

##### **§62-1A-2. Same — Grounds for issuance; property defined.**

(1) A warrant may be issued under this article to search for and seize any property

(a) Stolen, embezzled, or obtained by false pretenses; or

(b) Designed or intended for use or which is or has been used as a means of committing a criminal offense; or

(c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended for use or which is or has been used, in



violation of the criminal laws of this state ~~heretofore or hereinafter enacted.~~

(2) The As used in this section, the term “property” shall include documents, books, and papers, electronic and digital information, including, but not limited to, social media accounts, and any other tangible objects.

(a) For purposes of this section, “electronic and digital information” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include (1) any wire or oral communication; (2) any communication made through a tone-only paging device; or (3) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

(b) A search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall state with particularity the item, application, program, or information sought.

(c) A search warrant for electronic or digital information issued pursuant to this section or Rule 41 of the Rules of Criminal Procedure may be executed or served in any state where the electronic or digital information is stored or where the person or entity in possession of the electronic or digital information does business or resides.

The bill (Eng. Com. Sub. for H. B. 2892), as amended, was then ordered to third reading.

**Eng. House Bill 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Rucker, the following amendment to the bill was reported by the Clerk and adopted:

On page two, section five, lines twenty-five through twenty-seven, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) Pursuant to §6B-2-5(1) of this code, the chancellor may receive only one form of salary if such person serves as the chancellor for both the higher education policy commission and the council for community and technical colleges.

The bill (Eng. H. B. 4022), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4099**, Eliminating the permit for shampoo assistants.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4113**, Relating to motor fuel excise taxes.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page three, section nine, line sixty, by striking out the word “when”.

The bill (Eng. H. B. 4113), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4378**, Relating to disciplining teachers.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4396**, Relating to reporting suspected governmental fraud.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4409**, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section thirty-three-a, by striking out the section heading and inserting in lieu thereof a new section heading, to read as follows:

**“§33-3-33a. Excess moneys of Fire Protection Fund deposited into Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; other funding; special report from State Fire Marshal by December 15, 2015; termination of program June 30, 2022.”;**

On page one, section thirty-three-a, line ten, by striking out “2020” and inserting in lieu thereof “2022”;

And,

On page two, section thirty-three-a, line nineteen, by striking out “2020” and inserting in lieu thereof “2022”.

The bill (Eng. H. B. 4409), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4414**, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

### **§16-1-20. Definitions and purpose.**

(a) For the purpose of this code:

“English” means and includes spoken English, written English, or English with the use of visual supplements;

“Language developmental milestones” means milestones of development aligned with the existing state instrument used to meet the requirements of federal law for the assessment of children from birth to five years of age, inclusive; and

“Language” includes American Sign Language (ASL) and English.

(b) For the purposes of developing and using language for a child who is deaf or hard of hearing, the following modes of communication may be used as a means for acquiring language: American Sign Language (ASL) services, spoken language services, dual language services, cued speech and tactile, or a combination thereof.

(c) This section shall apply only to children from birth to five years of age, inclusive.

(d) Implementation of this code is subject to an appropriation by the legislature.

(e) Federal regulations for children age birth through two do not require reporting of measures specific to language and literacy. However, this data is reported for children age three to five and the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall make this report available to the advisory committee, and available to others upon request.

(f) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education through their agencies that serve children ages birth to five and their families shall jointly select language developmental milestones from existing standardized norms, to develop a family resource for use by families, providers, early interventionists, speech pathologists, educators, and other service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development. This family resource shall include:

(1) Language that provides comprehensive and neutral, unbiased information regarding different modes used to learn and access language (e.g., English, American Sign Language (ASL), or both) and services and programs designed to meet the needs of children who are deaf or hard-of-hearing;

(2) Language developmental milestones selected pursuant to the process specified in this section;

(3) Language appropriate for use, in both content and administration, with deaf and hard-of-hearing children from birth to five years of age, inclusive, who use both or one of the languages of American Sign Language (ASL) or English;

(4) Developmental milestones in terms of typical development of all children, by age range;

(5) Language written for clarity and ease of use by families;

(6) Language that is aligned with the West Virginia Department of Health and Human Resources' and the West Virginia Department of Education's existing infant, toddler, and preschool guidelines, the existing instrument used to assess the development of children with disabilities pursuant to federal law, and state standards in language and literacy;

(7) Clarification that the parent(s) have the right to select which language (American Sign Language (ASL), English, or both) for their child's language(s) acquisition and developmental milestones;

(8) Clarification that the family resource is not a formal assessment of language and literacy development, and that a family's observations of their children may differ from formal assessment data presented at an individualized family service plan (IFSP) or individual education program (IEP) meeting; and

(9) Clarification that the family resource may be used during an individualized family service plan (IFSP) or individual education program (IEP) meeting for purposes of sharing the family's observations about their child's development.

(g) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall also prepare a list of valid and reliable existing tools or assessments for providers, early interventionists, speech pathologists, educators, and other service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children. These educator tools and assessments:

(1) Shall be in a format that shows stages of language development;

(2) Shall be used by providers, early interventionists, speech pathologists, educators, and other service providers to determine the progressing development of deaf and hard-of-hearing children's receptive and expressive language acquisition and developmental stages toward English literacy;

(3) Shall be selected from existing instruments or assessments used to assess the development of all deaf and hard-of-hearing children from birth to five years of age, inclusive;

(4) Shall be appropriate, in both content and administration, for use with children who are deaf and hard-of-hearing;

(5) May be used, in addition to the assessment required by federal law, by the individualized family service plan (IFSP) team and individual education program (IEP) team, as applicable, to track deaf and hard-of-hearing children's progress, and to establish or modify individualized family service plans (IFSPs) and individual education programs (IEPs); and

(6) May reflect the recommendations of the advisory committee established pursuant to §16-1-20(e) of this code.

(h) To promote the intent of this code, the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall:

(1) Disseminate the family resource developed to families of deaf and hard-of-hearing children, as well as providers, early interventionists, speech pathologists, educators, and related service personnel; and

(2) Disseminate the educator tools and assessments selected to local educational agencies for use in the development and modification of individualized family service plans (IFSPs) and individual education programs (IEPs);

(3) Provide informational materials on the use of the resources, tools, and assessments to assist deaf and hard-of-hearing children in becoming linguistically ready for formal school entry (either itinerant services, West Virginia Universal PreK/PreK Special Needs, or Kindergarten) using the mode(s) of communication and language(s) chosen by the parents.

(i) If a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills, as measured by one of the educator tools or assessments, or by the existing

instrument used to assess the development of children with disabilities pursuant to federal law, as applicable, the child's individualized family service plan (IFSP) team and individual education program (IEP) team shall, as part of the process required by federal law, explain in detail the reasons why the child is not meeting the language developmental milestones or progressing towards them, and shall recommend specific strategies, services, and programs that shall be provided to assist the child's success toward English literacy development.

(j) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall establish an advisory committee to solicit input from stakeholders identified herein on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing, for inclusion in the family resource developed pursuant to this section.

(k) The advisory committee shall be comprised of volunteer individuals representing all known modes of communication, specifically including the following:

(1) One parent of a child who is hard-of-hearing who uses the dual languages of American Sign Language (ASL) and English;

(2) One parent of a child who is deaf or hard-of-hearing who uses assistive technology to communicate with spoken English;

(3) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service providers of deaf or hard-of-hearing children who are knowledgeable in the use of the dual languages of English and American Sign Language (ASL);

(4) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service provider of deaf or hard-of-hearing children who are knowledgeable in the use of assistive technology to communicate with spoken English;



(5) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing children using American Sign Language (ASL) or English;

(6) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing children using assistive technology to communicate with spoken English.

(7) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in American Sign Language (ASL) and English;

(8) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in assistive technology to communicate with spoken English;

(9) One advocate for the teaching and use of the dual languages of American Sign Language (ASL) and English;

(10) One advocate for the teaching and use of instruction in assistive technology to communicate with spoken English; and,

(11) One educational audiologist who can address the issues of aural habilitation and assistive technology to advocate for children using spoken language in mainstream environments.

(l) The advisory committee may also advise the West Virginia Department of Health and Human Resources and the West Virginia Department of Education on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law, as used to assess deaf and hard-of-hearing children's language and literacy development to ensure the appropriate use of that instrument with those children, and make recommendations regarding future research to improve the measurement of progress of deaf and hard-of-hearing children in language and literacy.

(m) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall provide the advisory committee with a list of existing language

developmental milestones from existing standardized norms, along with any relevant information held by the departments regarding those language developmental milestones for possible inclusion in the family resource developed pursuant to this section.

(n) After reviewing, the advisory committee shall recommend to the West Virginia Department of Health and Human Resources and the West Virginia Department of Education language developmental milestones for selection.

(o) Commencing on or before July 31, 2021, and on or before each July 31 thereafter, the West Virginia Department of Education shall annually produce an aggregated report, using existing data reported in compliance with the federally required state performance plan on children with disabilities, that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age, inclusive, including those who are deaf or hard-of-hearing and have other disabilities, relative to their peers who are not deaf or hard-of-hearing. The departments shall make this report available to the advisory committee, the Legislative Oversight Commission on Education Accountability, the Legislative Oversight Commission on Health and Human Resources Accountability, and available to others upon request.

(p) All activities of the West Virginia Department of Health and Human Resources and the West Virginia Department of Education in implementing this code shall be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information.

The bill (Eng. Com. Sub. for H. B. 4414), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4415**, Relating to missing and endangered children.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 3D. MISSING PERSONS ACT.**

#### **§15-3D-3. Definitions.**

For the purposes of this article:

(1) “CODIS” means the Federal Bureau of Investigation’s Combined DNA Index System, which allows for the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories. The term “CODIS” includes the National DNA Index System or NDIS, administered and operated by the Federal Bureau of Investigation.

(2) “Complainant” means a person who contacts law enforcement to report that a person is missing.

(3) “Electronic communication device” means a cellular telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device.

(4) “Juvenile” means any person under ~~24~~ 18 years of age.

(5) “Law-enforcement agency” means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof.

(6) “Lead law-enforcement agency” means the law-enforcement agency that initially receives a missing persons complaint or, after the fulfillment of all requirements of this article related to the initial receipt of a missing persons complaint and

transmission of information to required databases, the law-enforcement agency with the primary responsibility for investigating a missing or unidentified persons complaint.

(7) “Missing and endangered child” means any missing child for which there are substantial indications the child is at high risk of harm or in immediate danger, and rapid action is required, including, but not limited to:

(A) Physically or mentally disabled and dependent upon an agency or another individual for care;

(B) Under the age of 13;

(C) Missing under circumstances which indicate the child’s safety may be in danger; or

(D) A foster child and has been determined a missing and endangered child by the Department of Health and Human Resources.

(8) “Missing child” means any child under the age of 18 whose whereabouts are unknown to the child’s legal custodian.

(9) “Missing person” means any person who is reported missing to a law-enforcement agency.

~~(8)~~ (10) “NamUs” means the database of the National Missing and Unidentified Persons System.

~~(9)~~ (11) “NCIC” means the database of the National Crime Information Center, the nationwide, online computer telecommunications system maintained by the Federal Bureau of Investigation to assist authorized agencies in criminal justice and related law-enforcement objectives.

~~(10)~~ (12) “NCMEC” means the database of the National Center for Missing and Exploited Children.

~~(11)~~ (13) “Unidentified person” means any person, living or deceased, who has not been identified through investigation for over 30 days.

~~(12)~~ (14) “Violent Criminal Apprehension Program” or “ViCAP” is a unit of the Federal Bureau of Investigation responsible for the analysis of serial violent and sexual crimes.

~~(13)~~ (15) “WEAPON system” means the West Virginia Automated Police Network.

**§15-3D-9. Missing and Endangered Child Advisory System; definitions; rule-making authority.**

(a) There is hereby created an advisory system, referred to in this section as the “system”, to aid in the identification and location of missing and endangered children.

(b) “Missing and Endangered Child Advisory” means a system used to alert the public of a missing and endangered child to aid in the child’s rapid recovery.

(c) The State Police shall promulgate emergency rules establishing procedures for local law-enforcement agency’s issuance of a missing and endangered child advisory.

**CHAPTER 49. CHILD WELFARE.**

**ARTICLE 6. MISSING CHILDREN INFORMATION ACT.**

**§49-6-103. Information to clearinghouse; definitions.**

(a) ~~Every~~ The Department of Health and Human Resources and every law-enforcement agency in West Virginia shall provide to the clearinghouse or another investigating law-enforcement agency any information ~~the law-enforcement agency has~~ that would assist in locating or identifying a missing child.

(b) For purposes of this article:

(1) “Missing and endangered child” means any missing child for which there are substantial indications the child is at high risk of harm or in immediate danger, and rapid action is required, including, but not limited to:

(A) Physically or mentally disabled and dependent upon an agency or another individual for care;

(B) Under the age of 13;

(C) Missing under circumstances which indicate the child's safety may be in danger; or

(D) A foster child and has been determined a missing and endangered child by the Department of Health and Human Resources.

(2) "Missing child" means any child under the age of 18 whose whereabouts are unknown to the child's legal custodian.

**§49-6-105. Missing child report forms; where filed.**

(a) The clearinghouse shall distribute missing child and missing and endangered child report forms to law-enforcement agencies in the state and to the Department of Health and Human Resources.

(b) A missing child or missing and endangered child report may be made to a law-enforcement agency in person or by telephone, or other indirect method of communication, and the person taking the report may enter the information on the form for the reporter. A missing child or missing and endangered child report form may be completed by the reporter and delivered to a law-enforcement office.

(c) A copy of the ~~missing child~~ report form shall be ~~filed with~~ maintained by the clearinghouse.

**§49-6-106. Missing child reports; law-enforcement agency requirements; unidentified bodies.**

(a) A law-enforcement agency, upon receiving a missing child or missing and endangered child report, shall:

(1) ~~Immediately start~~ Start an investigation to determine the present location of the child if it determines that the child is in danger; and

(2) Enter the name of the missing child or missing and endangered child into the clearinghouse and the National Crime Information Center missing person file if the child meets the center's criteria, with all available identifying features, including dental records, fingerprints, other physical characteristics, and a description of the clothing worn when the missing child or missing and endangered child was last seen.

(b) Information not immediately available shall be obtained as soon as possible by the law-enforcement agency and entered into the clearinghouse and the National Crime Information Center file as a supplement to the original entry.

(c) All West Virginia law-enforcement agencies shall enter information about all unidentified bodies of children found in their jurisdiction into the clearinghouse and the National Crime Information Center unidentified person file, including all available identifying features of the body and a description of the clothing found on the body. If an information entry into the National Crime Information Center file results in an automatic entry of the information into the clearinghouse, the law-enforcement agency is not required to make a direct entry of that information into the clearinghouse.

(d) A law-enforcement agency, upon receiving a missing and endangered child report, shall immediately:

(1) Start an investigation to determine the present location of the child if it determines that the child is missing and endangered; and

(2) Issue a Missing and Endangered Child Advisory pursuant to §15-3D-9 of this code.

**§49-6-109. Interagency cooperation.**

(a) State agencies and public and private schools shall cooperate with a law-enforcement agency that is investigating a any missing child or missing and endangered child report and shall furnish any information, including confidential information, that

will assist the law-enforcement agency in completing the investigation.

(b) Information provided by a state agency or a public or private school may not be released to any person outside the law-enforcement agency or the clearinghouse, except as provided by rules of the West Virginia State Police.

**§49-6-110. Confidentiality of records; rulemaking; requirements.**

(a) The State Police shall promulgate rules according §29A-3-1 *et seq.* of this code to provide for the classification of information and records as confidential that:

(1) Are otherwise confidential under state or federal law or rules promulgated pursuant to state or federal law;

(2) Are related to the investigation by a law-enforcement agency of a missing child, a missing and endangered child, or an unidentified body, if the State Police, in consultation with the law-enforcement agency, determines that release of the information would be deleterious to the investigation;

(3) Are records or notations that the clearinghouse maintains for internal use in matters relating to missing children or missing and endangered children and unidentified bodies and the State Police determines that release of the internal documents might interfere with an investigation by a law-enforcement agency in West Virginia or any other jurisdiction; or

(4) Are records or information that the State Police determines might interfere with an investigation or otherwise harm a child or custodian.

(b) The rules may provide for the sharing of confidential information with the custodian of the missing child or missing and endangered child: *Provided, That confidential information, which is not believed to jeopardize an investigation, must be shared with the custodian when the legal custodian is the Department of Health and Human Resources.*



**§49-6-112. Agencies to receive report; law-enforcement agency requirements.**

(a) Upon completion of the missing child or missing and endangered child report the law-enforcement agency shall immediately forward the contents of the report to the missing children information clearinghouse and the National Crime Information Center's missing person file. However, if an information entry into the National Crime Information Center file results in an automatic entry of the information into the clearinghouse, the law-enforcement agency is not required to make a direct entry of that information into the clearinghouse.

(b) Within 15 days of completion of the report, if the child is less than 13 years of age the law-enforcement agency may, when appropriate, forward the contents of the report to the last:

(1) Child care center or child care home in which the child was enrolled; or

(2) School the child attended in West Virginia, if any.

(c) A law-enforcement agency involved in the investigation of a missing child or missing and endangered child shall:

(1) Update the initial report filed by the agency that received notification of the missing child or missing and endangered child upon the discovery of new information concerning the investigation;

(2) Forward the updated report to the appropriate agencies and organizations;

(3) Search the National Crime Information Center's wanted person file for reports of arrest warrants issued for persons who allegedly abducted or unlawfully retained children and compare these reports to the missing child's National Crime Information Center's missing person file; and

(4) Notify all law-enforcement agencies involved in the investigation, the missing children information clearinghouse, and

the National Crime Information Center when the missing child is located.

**§49-6-113. Clearinghouse Advisory Council; members, appointments and expenses; appointment, duties and compensation of director; annual reports.**

(a) The Clearinghouse Advisory Council is continued as a body corporate and politic, constituting a public corporation and government instrumentality. The council shall consist of 11 members who are knowledgeable about and interested in issues relating to missing or exploited children, as follows:

(1) Six members to be appointed by the Governor, with the advice and consent of the Senate, with not more than four belonging to the same political party, three being from different congressional districts of the state and, as nearly as possible, providing broad state geographical distribution of members of the council, and at least one representing a nonprofit organization involved with preventing the abduction, runaway, or exploitation of children or locating missing or missing and endangered children;

(2) The Secretary of the Department of Health and Human Resources or his or her designee;

(3) The Superintendent of the West Virginia State Police or his or her designee;

(4) The State Superintendent of Schools or his or her designee;

(5) The Director of the ~~Criminal Justice and Highway Safety~~ Division of Administrative Services or his or her designee; and

(6) The Commissioner of the Bureau for Children and Families or his or her designee.

(b) The Governor shall appoint the six council members for staggered terms. The terms of the members first taking office on or after the effective date of this legislation shall expire as designated by the Governor. Each subsequent appointment shall be for a full three-year term. Any appointed member whose term is expired

shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy may serve only for the unexpired term. A member is eligible for only one successive reappointment. A vacancy shall be filled by the Governor in the same manner as the original appointment was made.

(c) Members of the council are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(d) A majority of serving members constitutes a quorum for the purpose of conducting business. The chair of the council shall be designated by the Governor from among the appointed council members who represent nonprofit organizations involved with preventing the abduction, runaway, or exploitation of children or locating missing children or missing and endangered children. The term of the chair shall run concurrently with his or her term of office as a member of the council. The council shall meet semiannually at the call of the chair. The council shall conduct all meetings in accordance with the open governmental meetings law pursuant to §6-9A-1 *et seq.* of this code.

(e) The employee of the West Virginia State Police who is primarily responsible for the clearinghouse established by §49-6-101 of this code, shall serve as the executive director of the council. He or she shall receive no additional compensation for service as the executive director of the council but shall be reimbursed for any reasonable and necessary expenses actually incurred in the performance of his or her duties as executive director in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

~~(f) The expenses of council members and the executive director shall be reimbursed from funds provided by foundation grants, in-kind contributions or funds obtained pursuant to subsection (b), section one hundred fifteen of this article.~~

~~(g)~~ The executive director shall provide or obtain information necessary to support the administrative work of the council and, to that end, may contract with one or more nonprofit organizations or state agencies for research and administrative support.

~~(h)~~ (g) The executive director of the council shall be available to the Governor and to the Speaker of the House of Delegates and the President of the Senate to analyze and comment upon proposed legislation and rules which relate to or materially affect missing or exploited children.

~~(i)~~ (h) The council shall prepare and publish an annual report of its activities and accomplishments and submit it to the Governor and ~~to the Joint Committee on Government and Finance the~~ Legislature on or before December 15 of each year.

**§49-6-114. Powers and duties of clearinghouse advisory council; comprehensive strategic plan required to be provided to the Legislature.**

The council shall prepare a comprehensive strategic plan and recommendation of programs in furtherance thereof that will support efforts to prevent the abduction, runaway and exploitation, or any thereof, of children to locate missing children, advise the West Virginia State Police regarding operation of the clearinghouse and its other responsibilities under this article, and cooperate with and coordinate the efforts of state agencies and private organizations involved with issues relating to missing or exploited children. The council may seek public and private grants, contracts, matching funds, and procurement arrangements from the state and federal government, private industry, and other agencies in furtherance of its mission and programs. An initial comprehensive strategic plan that will support and foster efforts to prevent the abduction, runaway, and exploitation of children, and to locate missing children, shall be developed and provided to the Governor, the Speaker of the House of Delegates, and the President of the Senate no later than ~~July 1, 2015~~ July 1, 2020, and shall include, but not be limited to, the following:

(1) Findings and determinations regarding the extent of the problem in this state related to: (A) Abducted children; (B) ~~runaway~~ missing children; ~~and~~ (C) exploited children; and (D) missing and endangered children.

(2) Findings and determinations identifying the systems, both public and private, existing in the state to prevent the abduction, runaway, or exploitation of children, and to locate missing children, and assessing the strengths and weaknesses of those systems and the clearinghouse;

(3) The inclusion of exploited children within the functions of the clearinghouse. For purposes of this article, an exploited child is a person under the age of 18 years who has been: (A) Used in the production of pornography; (B) subjected to sexual exploitation or sexual offenses under §61-8B-1 *et seq.* of this code; or (C) employed or exhibited in any injurious, immoral, or dangerous business or occupation in violation of §§61-8-5 through 61-8-8 of this code;

(4) Recommendations of legislative changes required to improve the effectiveness of the clearinghouse and other efforts to prevent abduction, runaway, or exploitation of children, and to locate missing children. Those recommendations shall consider the following:

(A) Interaction of the clearinghouse with child custody proceedings;

(B) Involvement of hospitals, child care centers, and other private agencies in efforts to prevent child abduction, runaway, or exploitation, and to locate missing children;

(C) Publication of a directory of and periodic reports regarding missing children;

(D) Required reporting by public and private agencies and penalties for failure to report and false reporting;

(E) Removal of names from the list of missing children;

(F) Creating of an advocate for missing and exploited children;

(G) State funding for the clearinghouse and efforts to prevent the abduction, runaway, and exploitation of children, and to locate missing children;

(H) Mandated involvement of state agencies, such as publication of information regarding missing children in existing state publications and coordination with the state registrar of vital statistics under §§16-5-12 of this code; and

(I) Expanded requirement for boards of education to notify the clearinghouse in addition to local law-enforcement agencies under §18-2-5c of this code or if a birth certificate or school record received appears to be inaccurate or fraudulent and to receive clearinghouse approval before releasing records;

(5) Methods that will coordinate and engender collaborative efforts among organizations throughout the state, whether public or private, involved with missing or exploited children;

(6) Plans for the use of technology in the clearinghouse and other efforts related to missing or exploited children;

(7) Compliance of the clearinghouse, state law, and all rules promulgated pursuant thereto with applicable federal law so as to enhance opportunities for receiving federal grants;

(8) Consultation with the state board of education and other agencies responsible for promulgating rules under this article;

(9) Possible methods for identifying missing children prior to enrollment in a public or nonpublic school;

(10) The feasibility and effectiveness of utilizing the federal parent locator service in locating missing children; and

(11) Programs for voluntary fingerprinting.

**§49-6-116. Establish a missing foster child locator unit program.**

(a) The Secretary of the West Virginia Department of Health and Human Resources shall establish a Missing Foster Child

Locator Unit within the department with a minimum staffing of a northern-based caseworker, a southern-based caseworker, and an identified worker located in the Centralized Intake Unit.

(b) The duties of the Missing Foster Child Locator Unit shall include, but are not limited to, the following:

(1) Receiving reports of missing foster children;

(2) Assisting law enforcement in locating missing foster children who have been reported missing; and

(3) Interviewing missing foster children and completing trafficking screening once the child is located.

(c) For this section, “missing foster child” means missing child or missing and endangered child, as defined in §49-6-103 of this code, who is a foster child at the time he or she was reported missing.

(d) Beginning in July 1, 2021, and each year thereafter, the Secretary of the Department of Health and Human Resources shall provide a status report to the Legislative Oversight Committee on Health and Human Resources Accountability.

(e) The secretary shall implement and administer this program at least until December 31, 2022. The secretary may administer this program after such date.

The bill (Eng. Com. Sub. for H. B. 4415), as amended, was then ordered to third reading.

**Eng. House Bill 4417**, Relating to permitting professional boards.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4519**, Establishing a summer youth intern pilot program within Department of Commerce.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4546**, Relating to tuberculosis testing for school superintendents.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4551**, Relating to subsidized adoption.

Having been read a second time on yesterday, Monday, March 2, 2020, and now coming up in regular order with the Select Committee on Children and Families amendment to the bill (*shown in the Senate Journal of that day, pages 1835 and 1836*) pending, was reported by the Clerk.

The question being on the adoption of the Select Committee on Children and Families amendment to the bill.

On motion of Senator Roberts, the following amendment to the Select Committee on Children and Families amendment to the bill was reported by the Clerk:

On page one, section one hundred twelve, by striking out subdivisions (1) through (4) and inserting in lieu thereof the following:

- (1) They have a physical or mental disability;
- (2) They are emotionally disturbed;
- (3) They are older children;
- (4) They are a part of a sibling group; or
- (5) They are a member of a racial or ethnic minority.

Following discussion,



The question being on the adoption of the amendment offered by Senator Roberts to the Select Committee on Children and Families amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Select Committee on Children and Families amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. H. B. 4551), as amended, was then ordered to third reading.

(Senator Weld in the Chair.)

**Eng. House Bill 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Military, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

### **§29-1-3. Commission on the Arts.**

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight voting members may be of the same political party. Effective July 1, 2004, no more than three voting members may be from the same regional educational service

agency district created in §18-2-26 of this code. Voting members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall be an ex officio nonvoting member of the commission and shall serve as secretary. The director or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each voting member or ex officio nonvoting member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that in the event the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, shall not be reimbursed by the state.

(5) Upon recommendation of the commissioner, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the commissioner and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the commissioner or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section;

(5) Approve rules concerning the professional policies and functions of the section as promulgated by the director of the arts section; and

(6) Advise and consent to the appointment of the director by the commissioner.

(d) A special revenue account in the State Treasury, known as the “Cultural Facilities and Capital Resources Matching Grant Program Fund”, is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

(1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*, That the Commission on the Arts may use no more than 25 percent of the funding for operations of cultural facilities pursuant to the rule required by this subdivision: ~~*Provided, however, That the commission shall make a women’s veterans memorial statue a priority when expending the funds: Provided further, That the commission shall submit the plans for the statue to the secretary of administration for his or her approval.*~~ The Commission on the Arts shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to create a matching grant program for cultural facilities and capital resources; and

(2) Fifty percent of the moneys deposited in the fund shall be expended by the Division of Culture and History for:

(A) Capital improvements, preservation, and operation of cultural facilities that are managed by the division; and

(B) Capital improvements, preservation, and operation of cultural facilities that are not managed by the division.

(e) The commission shall undertake a study, solicit designs, and make recommendations for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The commission shall consult with the Capitol Building Commission and state veterans, including veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a proposal for the memorial. The commission shall provide a report to the Legislature's Joint Committee on Government and Finance by January 1, 2022, including recommendations for design and location of the memorial and estimated construction costs.

At the request of Senator Takubo, unanimous consent being granted, further consideration of the bill (Eng. H. B. 4589) and the pending Military committee amendment were deferred until the conclusion of bills on today's second reading calendar.

**Eng. Com. Sub. for House Bill 4593**, Authorizing the assignment of poll workers to serve more than one precinct under certain circumstances.

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:

On page four, section five, line thirty-three, by striking out the word "notwithstanding" and inserting in lieu thereof the words "except as permitted by".

The bill (Eng. Com. Sub. for H. B. 4593), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4594**, Allowing poll workers to be appointed to work in precincts outside their county.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4621**, West Virginia FinTech Regulatory Sandbox Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Economic Development, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 8G. THE WEST VIRGINIA FINTECH REGULATORY SANDBOX PROGRAM.**

**§31A-8G-1. The West Virginia FinTech Regulatory Sandbox Program.**

This article shall be known as the West Virginia FinTech Regulatory Sandbox Act.

**§31A-8G-2. Definitions.**

As used in this article:

“Applicable agency” means a department or agency of the state that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate a regulatory sandbox participant.

“Applicant” means an individual or entity that is applying to participate in the regulatory sandbox program.

“Consumer” means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a regulatory sandbox participant.

“Distributed ledger” means the use of a digital database containing records of financial transactions, including blockchain technology, which can be simultaneously used and shared within a

decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

“Division of Financial Institutions” and “division” mean the West Virginia Division of Financial Institutions.

“Financial product or service” means:

(A) A financial product or financial service that requires state licensure or registration; or

(B) A financial product or financial service that includes a business model, delivery mechanism, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by the West Virginia Division of Financial Institutions under chapters 31, 31A, 31C, and 32A-2 of this code or other related provisions; or

(C) In consultation with applicable agencies and with written agreement, a product or service that is governed by chapters 32 and 33 of this code.

“Innovation” means the use or incorporation of a new or emerging technology or a new use of existing technology, including distributed ledger, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the Division of Financial Institutions to have a comparable widespread offering in the state.

“Innovative product or service” means a financial product or service that includes an innovation.

“Regulatory sandbox program” or “regulatory sandbox” means the West Virginia FinTech Regulatory Sandbox Program created by this article, which allows a person to temporarily test an innovative product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

“Regulatory sandbox participant”, “sandbox participant”, or “participant” means a person whose application to participate in the

regulatory sandbox program is approved in accordance with the provisions of this article.

“Test” means to provide an innovative product or service in accordance with the provisions of this chapter.

**§31A-8G-3. Regulatory Sandbox Program; administration; application requirements; fee; rulemaking.**

(a) There is created in the Division of Financial Institutions the Regulatory Sandbox Program.

(b) In administering the regulatory sandbox program, the Division of Financial Institutions:

(1) Shall consult with the West Virginia Development Office relating to the economic development opportunities relating to the potential regulatory sandbox participant and may consult with any applicable agency which otherwise may have jurisdiction or authority relating to any activity proposed for the regulatory sandbox program for which the applicant is seeking to proceed without authorization or license;

(2) Shall have the authority to promulgate rules in accordance with §31A-2-4 and §29A-3-1 *et seq.* of this code for the purposes of administering the regulatory sandbox program;

(3) Shall establish a program to an individual or an entity to partner with existing financial service providers operating within the state to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required; and

(4) May enter into cooperative, coordinating, or information-sharing agreements with or follow the best practices of the federal Consumer Financial Protection Bureau or other states that are administering similar programs as well as other state agencies to carry out the mandates of this article.

(c) An applicant for the regulatory sandbox program shall provide to the Division of Financial Institutions an application in a form prescribed by the Division of Financial Institutions that:

(1) Demonstrates the applicant is subject to the jurisdiction of the state;

(2) Demonstrates the applicant is a domestic corporation or other organized domestic entity with an established physical location in the state; where all required records, documents, and data relating to any approved testing can be made available for review by the Division of Financial Institutions and any other applicable agency with jurisdiction;

(3) Demonstrates that the applicant has attempted to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia to implement the applicant's proposed test of an innovative product or service within the regulatory sandbox program: *Provided*, That the applicant shall not be excluded from participation in the regulatory sandbox program solely based on the applicant's ability to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia;

(4) Contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the Division of Financial Institutions;

(5) Discloses criminal convictions of the applicant or other participating personnel, if any, and submits to a criminal background investigation;

(6) Demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and a developed plan to test, monitor, and assess the innovative product or service;

(7) Contains a description of the innovative product or service to be tested, including statements regarding all of the following:



(A) How the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox program;

(B) How the innovative product or service would benefit consumers;

(C) How the innovative product or service is different from other products or services available in the state;

(D) What risks may confront consumers that use or purchase the innovative product or service;

(E) What measures will be put into place to limit potential risks and harm to consumers and to resolve complaints during the sandbox period;

(F) How participating in the regulatory sandbox program would enable a successful test of the innovative product or service;

(G) A description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(H) A description of how the applicant will perform ongoing duties after the test; and

(I) How the applicant will end the test and protect consumers if the test fails;

(8) Sets forth whether the applicant has been provided any license or authorization by any state or federal agency; whether any state or federal agency has previously investigated, sanctioned, or pursued legal action against the applicant; and whether the applicant has had licensure or authorization denied or withdrawn by any state or federal agency;

(9) Posts a consumer protection bond with the commissioner in accordance §31A-8G-4(j) of the Code as security for potential losses suffered by consumers. *Provided*, That the bond amount

shall not be less than \$5,000. *Provided, further,* That the commissioner may require that a bond be increased or decreased at any time based on risk profile, and shall expire two years after the date of the conclusion of the sandbox period;

(10) Demonstrates registration with the West Virginia Secretary of State;

(11) Demonstrates that the applicant has an exit plan to limit consumer harm at the end of the sandbox period, including a plan to notify consumers and advise them of next steps; and

(12) Provides any other information as required by the Division of Financial Institutions.

(d) The Division of Financial Institutions may collect an application fee of not more than \$1,500 from an applicant.

(e) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(f) After an application is filed, the Division of Financial Institutions may seek additional information from the applicant as it deems necessary.

(g) Subject to subsection (h) of this section, not later than 90 days after the day on which a complete application is received by the Division of Financial Institutions, the division shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox program.

(h) The Division of Financial Institutions and an applicant may mutually agree to extend the 90-day time period described in subsection (g) of this section in order for the Division to determine whether an application is approved for entry into the regulatory sandbox program.

(i)(1) In reviewing an application under this section, the Division of Financial Institutions may consult with, and seek the approval of, any applicable agency before admitting an applicant into the regulatory sandbox program.

(2) The consultation with an applicable agency may include seeking information about whether:

(A) The applicable agency has previously issued a license or other authorization to the applicant;

(B) The applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(C) Whether the applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox program; and

(D) Whether certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox program.

(j) In reviewing an application under this section, the Division of Financial Institutions shall consider whether a competitor to the applicant is or has been a regulatory sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(k) If the Division of Financial Institutions approves admitting an applicant into the regulatory sandbox program, an applicant may become a regulatory sandbox participant.

(D)(1) The Division of Financial Institutions may deny any application submitted under this section, for any reason, at the division's discretion.

(2) If the Division of Financial Institutions denies an application submitted under this section, the division shall provide to the applicant a written description of the reasons for the denial as a regulatory sandbox participant.

(m) The division may enter into cooperative, coordinating, or information-sharing agreements with other federal and state agencies as necessary to fulfill the requirements of this article.

**§31A-8G-4. Scope; testing period; licenses; consumer protections.**

(a) If the Division of Financial Institutions approves an application under §31A-8G-3 of this code, the regulatory sandbox participant has 24 months after the day on which the application was approved to test the innovative product or service described in the sandbox participant's application.

(b) An innovative product or service that is tested within the regulatory sandbox program is subject to the following:

(1) All consumers participating in the innovative product or service being tested shall be residents of the state;

(2) The Division of Financial Institutions may, on a case-by-case basis, specify the maximum number of consumers that may transact through or enter into an agreement to use the innovative product or service:

(A) For a regular sandbox participant testing a consumer loan, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of an individual loan that may be issued to an individual consumer and the maximum amount of aggregate loans that may be issued to an individual consumer; and

(B) For a regulatory sandbox participant testing an innovative product or service that would normally require a money transmission license pursuant to this code, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of a single transaction for an individual consumer and the maximum aggregate amount of transactions for an individual consumer.

(c) This section does not restrict a regulatory sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(d) A regulatory sandbox participant is deemed to possess an appropriate license under the laws of this state for the purposes of

any provision of federal law requiring state licensure or authorization.

(e) Except as otherwise provided in this chapter, including subsections (f), (g), and (h), a regulatory sandbox participant that is testing an innovative product or service is not subject to state laws that regulate financial products or services.

(f) Regulatory sandbox participants and the innovative products and services that they are testing in the regulatory sandbox program are subject to all applicable consumer protection laws, including, but not limited to those contained in Chapters 46A of the West Virginia Code, the Collection Agency Act contained in Chapter 47A of this code, and any limitations on interest rates, whether of not those interest rates would otherwise require licensure.

(g)(1) The Division of Financial Institutions may determine that additional state laws that regulate a financial product or service apply to a regulatory sandbox participant if the Division of Financial Institutions, at its sole discretion, determines that an applicant's proposed a testing plan or the product or service to be tested poses significant risk to consumers or to the safety and soundness of other institutions within the financial services marketplace as to warrant the imposition of other applicable state laws.

(2) The Division of Financial Institutions shall determine the applicability of certain state laws to each innovative product or service prior to approval of any application to participate in the regulatory sandbox program and shall notify the regulatory sandbox participant of the specific regulatory provisions that shall apply to the innovative product or service throughout the duration of the testing period.

(3) If at any time during the testing period, the Division of Financial Institutions determines that the imposition of certain state laws is necessary to eliminate the risk of harm to consumers or the safety and soundness of other institutions operating within the financial services marketplace, the division may require that the

regulatory sandbox participant come into compliance with such state laws within a reasonable time.

(h) Notwithstanding any other provision of this chapter, a regulatory sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.

(i) By written notice, the Division of Financial Institutions may end a regulatory sandbox participant's participation in the program at any time and for any reason, including if the Division of Financial Institutions determines a sandbox participant is not operating in good faith to bring an innovative product or service to market.

(j) The commissioner shall require the regulatory sandbox participant to post a consumer protection bond with the commissioner as security for potential losses suffered by consumers. The bond amount shall be determined by the commissioner in consultation with the admitted sandbox participant in an amount not less than \$5,000 and shall be commensurate with the risk profile of the innovative financial product or service. The commissioner may accept electronic bonds from any participant;

(k) The commissioner may:

(1) Require that a bond be increased or decreased at any time based on risk profile and shall provide the regulatory sandbox participant with 30 days prior written notice;

(2) Use bond proceeds to offset losses suffered by consumers as a result of an innovative product or service. The bond shall expire two years after the date of the conclusion of the regulatory sandbox program period. The commissioner may accept electronic bonds from any regulatory sandbox participant;

(3) Issue any order needed to enforce any bond posted under this article, or a portion of such bond, or to distribute any bond proceeds to affected consumers;

(4) Make or cause to be made an examination of the books, accounts, and records of every regulatory sandbox participant pursuant to the provisions of this article, for the purpose of determining whether the sandbox participant is complying with the provisions. If the examination is made outside of this state, the participant shall pay the cost of the examination; and

(5) Issue any orders necessary to enforce this article, including ordering the payment of restitution, and enforce those orders in any court of competent jurisdiction;

**§31A-8G-5. Additional consumer protections; disclosures.**

(a) Before providing an innovative product or service to a consumer, a regulatory sandbox participant shall disclose the following to the consumer:

(1) The name and contact information of the regulatory sandbox participant;

(2) That the innovative product or service is authorized pursuant to the regulatory sandbox and, if applicable, that the regulatory sandbox participant does not have a license or other authorization to provide a product or service under state laws that regulate products or services outside the regulatory sandbox;

(3) That the innovative product or service is undergoing testing, may not function as intended, and may expose the customer to financial risk;

(4) That the provider of the innovative product or service is not immune from civil liability for any losses or damages caused by the innovative product or service;

(5) That the state does not endorse or recommend the innovative product or service;

(6) That the innovative product or service is a temporary test that may be discontinued at the end of the testing period;

(7) The expected end date of the testing period; and

(8) That a consumer may contact the Division of Financial Institutions to file a complaint regarding the innovative product or service being tested and provide the Division of Financial Institution's telephone number and website address where a complaint may be filed.

(b) The disclosures required by subsection (a) of this section shall be provided to a consumer in a clear and conspicuous form and, for an internet or application-based innovative product or service, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

(c) The Division of Financial Institutions may investigate all consumer complaints made against the regulatory sandbox participant, pursuant to subsection (a) of this section: *Provided*, That the consumer making the complaint was directly provided the innovative product or service by the sandbox participant, and the innovative product or service was provided in the course of participation in the sandbox program.

(d) The Division of Financial Institutions may require that a regulatory sandbox participant make additional disclosures to a consumer.

**§31A-8G-6. Exiting requirements; extensions.**

(a) At least 30 days before the end of the 24-month regulatory sandbox testing period, a sandbox participant shall:

(1) Notify the Division of Financial Institutions that the regulatory sandbox participant will exit the regulatory sandbox program, discontinue the sandbox participant's test, and stop offering any innovative product or service in the regulatory sandbox within 60 days after the day on which the 24-month testing period ends; or

(2) Seek an extension in accordance with §31A-8G-7 of this code.

(b) Subject to subsection (c) of this section, if the Division of Financial Institutions does not receive notification as



required by subsection (a) of this section, the regulatory sandbox testing period ends at the end of the 24-month testing period and the regulatory sandbox participant shall immediately stop offering each innovative product or service being tested.

(c) If a test includes offering an innovative product or service that requires ongoing duties, such as servicing a loan, the regulatory sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the sandbox participant exits the regulatory sandbox, and not less than 30 days before the conclusion of the sandbox period, notify, in writing, any consumer of the product or service of the plan related to continuation or discontinuation of duties with respect to the product or service.

#### **§31A-8G-7. Testing period extensions.**

(a) Thirty days prior to the end of the 24-month regulatory sandbox testing period, a participant may request an extension of the regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law.

(b) The Division of Financial Institutions shall grant or deny a request for an extension in accordance with subsection (a) of this section by the end of the 24-month regulatory sandbox testing period.

(c) The Division of Financial Institutions may grant an extension in accordance with this section for not more than 12 months after the end of the regulatory sandbox testing period.

(d) A regulatory sandbox participant that obtains an extension in accordance with this section shall provide the Division of Financial Institutions with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected applications, or issued licenses or other authorization.

**§31A-8G-8. Recordkeeping and reporting requirements; participant removal.**

(a) A regulatory sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative product or service tested in the regulatory sandbox, and shall maintain comprehensive records for not less than five years after the conclusion of the sandbox period.

(b) If an innovative product or service fails before the end of a testing period, the regulatory sandbox participant shall notify the Division of Financial Institutions and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result of the failure.

(c) The Division of Financial Institutions will collaborate with regulatory sandbox participants admitted to the program to establish periodic and reasonable reporting requirements for a sandbox participant.

(d) The Division of Financial Institutions may request records, documents, and data from a regulatory sandbox participant, and, upon the division's request, a sandbox participant shall make such records, documents, and data available for inspection by the division.

(e) If the Division of Financial Institutions determines that a regulatory sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a state or federal criminal law, the Division of Financial Institutions may remove a sandbox participant from the regulatory sandbox and may refer suspected violations of law relating to this act to appropriate state or federal agencies for investigation, prosecution, civil penalties, and other appropriate enforcement actions.

(f) On or before December 1 of each year, the Division of Financial Institutions shall provide an annual written report to the Joint Committee on Government and Finance that provides information regarding each regulatory sandbox participant and that

provides recommendations regarding the effectiveness of the regulatory sandbox program. This report shall be made publicly available on the division's website.

The bill (Eng. Com. Sub. for H. B. 4621), as amended, was then ordered to third reading.

(Senator Carmichael, Mr. President, in the Chair.)

**Eng. Com. Sub. for House Bill 4633**, Expanding county commissions' ability to dispose of county or district property.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

On motion of Senator Maynard, the following amendment to the bill was reported by the Clerk and adopted:

On page one, section three, line seventeen, by striking out the words "nonprofit community center organization" and inserting in lieu thereof the words "community center organization already in existence on the effective date of the amendments to this section made during the 2020 Regular Session of the Legislature".

The bill (Eng. Com. Sub. for H. B. 4633), as amended, was then ordered to third reading.

**Eng. House Bill 4655**, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Military, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

**§16-4C-8. Standards for emergency medical services personnel.**

(a) Every ambulance operated by an emergency medical services agency shall carry at least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first aid and the person in the patient compartment shall be certified as an emergency medical technician-basic at a minimum except that in the case of a specialized multi-patient medical transport, only one staff person is required and that person shall be certified, at a minimum, at the level of an emergency medical technician-basic. The requirements of this subsection will remain in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of this code.

(b) On or before May 28, 2010, the commissioner shall submit a proposed legislative rule to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2010, shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to establish certification standards for emergency medical vehicle operators and to revise the requirements for emergency medical services personnel.

(c) As of the effective date of the legislative rule to be promulgated pursuant to §16-4C-8(b), emergency medical services personnel who operate ambulances shall meet the requirements set forth in the legislative rule.

(d) Any person desiring emergency medical services personnel certification shall apply to the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of the application, the commissioner shall determine whether the applicant meets the certification requirements and may examine the applicant if necessary to make that determination.

(e) The applicant shall submit to a national criminal background check, the requirement of which is declared to be not against public policy.

(1) The applicant shall meet all requirements necessary to accomplish the national criminal background check, including submitting fingerprints, and authorizing the West Virginia Office of Emergency Medical Services, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for certification.

(2) The results of the national criminal background check may not be released to or by a private entity.

(3) The applicant shall submit a fee of \$75 for initial certification and a fee of \$50 for recertification. The fees set forth in this subsection remain in effect until modified by legislative rule.

(f) An application for an original, renewal or temporary emergency medical service personnel certificate or emergency medical services agency license, shall be acted upon by the commissioner and the certificate or license delivered or mailed, or a copy of any order of the commissioner denying any such application delivered or mailed to the applicant, within 15 days after the date upon which the complete application, including test scores and background checks, if applicable, was received by the commissioner.

(g) Any person may report to the commissioner or the Director of the Office of Emergency Medical Services information he or she may have that appears to show that a person certified by the commissioner may have violated the provisions of this article or legislative rules promulgated pursuant to this article. A person who is certified by the commissioner, who knows of or observes another person certified by the commissioner violating the provisions of this article or legislative rules promulgated pursuant to this article, has a duty to report the violation to the commissioner or director. Any person who reports or provides information in good faith is immune from civil liability.

(h) The commissioner may issue a temporary emergency medical services personnel certificate to an applicant, with or without examination of the applicant, when he or she finds that issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall be valid initially for a period not exceeding 120 days and may not be renewed unless the commissioner finds the renewal to be in the public interest.

(i) For purposes of certification or recertification of emergency medical services personnel, the commissioner shall recognize and give full credit for all continuing education credits that have been approved or recognized by any state or nationally recognized accrediting body.

(j) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the Armed Services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-paramedic upon application. Any person may seek automatic certification as an emergency medical technician-paramedic in this state if he or she has:

(1) Been honorably discharged from any branch of the United States military;

(2) Received paramedic or similar life-saving medical training in positions including, but not limited to, United States Army Combat Medic, United States Air Force Pararescue, United States Air Force Combat Rescue Officer, United States Navy Hospital Corpsman – Advanced Technical Field, United States Coast Guard Health Services Technician, National Guard Health Care Specialist, the Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(k) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the Armed Services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-basic upon application. Any person may seek automatic certification as an emergency medical technician-basic in this state if he or she has:

(1) Been honorably discharged from any branch in the United States military;

(2) Received emergency medical technician training or similar life-saving medical training in positions including, but not limited to, United States Army Infantryman, United States Air Force Security Forces, United States Navy Hospital Corpsman, United States Coast Guard Aviation Survival Technician, United States Marines Infantryman, National Guard Infantryman, and Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(l) Upon reviewing an application for certification pursuant to subsection (j) and subsection (k) of this section, the commissioner shall issue an appropriate certificate to the individual applying for certification as an emergency medical technician-paramedic or emergency medical technician-basic without further examination or education. If an individual certified pursuant to this section permits his or her certification to expire, the commissioner may require examination as a condition of recertification.

The bill (Eng. H. B. 4655), as amended, was then ordered to third reading.

**Eng. House Bill 4664**, Clarifying the offense of driving under the influence of alcohol, controlled substances, or drugs.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4666**, Relating to competitive bids for intergovernmental relations and urban mass transportation.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 27. INTERGOVERNMENTAL RELATIONS —  
URBAN MASS TRANSPORTATION SYSTEMS.**

**§8-27-23. Competitive bids; publication of solicitation for sealed bids.**

(a) Any contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of \$10,000 ~~\$10,000~~ \$25,000, shall be based solely on competitive sealed bids.

(b) Except as provided ~~below~~ in subsections (c) or (d) of this section, the procurement of all supplies, equipment and materials, where the expenditure required exceeds the sum of \$10,000 ~~\$10,000~~ \$25,000, shall be based on the competitive procedure that is best suited under the circumstances of the procurement.

(c) In determining the competitive bid ~~procedures~~ procedure that is best suited under the circumstances, an authority shall conduct:

(1) Competitive sealed bidding if:

(A) Time permits a competitive bid process to be used;



(B) The award of the bid will be made primarily on price and price-related factors;

(C) It is likely to be unnecessary to conduct discussions with suppliers regarding bids, including discussions regarding price; and

(D) There is a reasonable expectation of receiving more than one sealed bid; or

(2) Competitive negotiation where competitive sealed bidding is not best suited under the circumstances.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, an authority may provide for the procurement of property or services covered by this section using other than competitive procedures only when:

(1) The property or services needed are available only from one responsible source and no other type of property or service will satisfy the authority's needs;

(2) The authority's need for the property or service is urgent, unusual and compelling because the authority would be seriously injured unless the authority is permitted to limit the number of sources from which it solicits;

(3) It is necessary to award a contract to a particular source or sources in order to maintain a facility, producer, manufacturer or other supplier in case of emergency; or

(4) It is necessary to establish or maintain an alternative source or sources of supply for the property or service to increase or maintain competition; or

(5) The authority is using the Federal Transit Administration Third Party Procurement Guidance circular, as may be amended by the Federal Transit Administration, when spending federal appropriations as a designated recipient of 49 U.S.C. §5307 and 49 U.S.C. §5340 - Urbanized Area Formula Appropriations - to finance its procurements or contracts.

(e) All sealed bids or competitive negotiated proposals received in response to a solicitation or request for bid may be rejected if an authority determines that the action is in the public interest.

(f) Sealed bids shall be opened publicly at the time and place stated in the solicitation and the authority shall evaluate the bids without discussions with bidders and award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the authority, considering only price and other price-related factors included in the solicitation.

(g) The evaluation of competitive proposals may include written or oral discussions conducted with all responsible bidders or suppliers at any time after receipt of the proposals and before the award or may be made without discussions. In either event, the award shall be made to the lowest responsible bidder or supplier.

(h) Adequate public notice of the solicitation of bids and proposals shall be given. Public notice shall be given not less than seven days before the date set for bid opening or, in the case of competitive negotiation, not less than seven days before the due date for receipt of proposals: *Provided*, That bids for the construction of facilities shall be obtained by public notice published as a Class I legal advertisement in compliance with ~~the provisions of §59-3-1 et seq.~~ of this code, with ~~such~~ the publication being made at least 14 days before the final date for submitting bids.

The bill (Eng. H. B. 4666), as amended, was then ordered to third reading.

**Eng. House Bill 4691**, Relating to employment in areas of critical need in public education.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4714**, Increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4780**, Permitting county boards to offer elective courses of instruction on the Bible.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Baldwin, 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 2. STATE BOARD OF EDUCATION.**

### **§18-2-9a. Elective courses of instruction on sacred texts or comparative religions.**

(a) County boards of education may offer to students in grade nine or above an elective social studies course on sacred texts or comparative world religions.

(b) The purpose of the elective courses authorized by the provisions of subsection (a) of this section is:

(1) To educate students as to the contents of the texts in an objective, academic manner which neither promotes nor disparages any religion;

(2) To educate students as to literary forms and symbols in the texts which are referred to in art, music, and literature; and

(3) To educate students as to the influence of the texts on history, philosophy, law, and culture.

(c) A student electing to take a course authorized by the provisions of subsection (a) of this section shall not be required to use a specific translation or version of the particular subject matter of the course.

(d) A county board of education electing to allow a course authorized by this section shall submit to the West Virginia Department of Education the course standards for any elective to be offered pursuant to subsection (a) of this section, including the teacher qualifications and required professional development.

(e) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. A course under this section may not endorse, favor, promote, disfavor, or show hostility toward any particular religion or nonreligious faith or religious perspective. Any county board offering a course under this section shall not violate any provision of the United States Constitution or federal law, the West Virginia Constitution or any state law, any administrative regulations of the United States Department of Education, or any rule of the state board. The state board shall provide guidance to the county boards on complying with the requirements of this subsection.

Following discussion,

The question being on the adoption of Senator Baldwin's amendment to the bill (Eng. Com. Sub. for H. B. 4780), and on this question, Senator Baldwin 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, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Baldwin's amendment to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 4780) was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4803**, Relating to certification of electrical inspectors.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Maynard, 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:

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 3C. CERTIFICATION OF ELECTRICAL INSPECTORS.**

**§29-3C-3. Certification of electrical inspectors required.**

After January 1, 2003, no electrical inspections may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any person who is not certified pursuant to this article: *Provided*, That any person who is employed by this state or any subdivision of this state and who in the normal course of his or her business conducts electrical inspections may perform electrical inspections as within the scope of his or her employment without certification pursuant to this article. Notwithstanding any other provision of this code to the contrary, any electrical building code inspector shall be considered an electrical inspector.

**§29-3C-5. Denial of license; suspension and revocation of license.**

The State Fire Marshal shall deny certification to any applicant, except those exempt under §29-3C-3 of this code, who:

(1) Fails to establish that he or she holds any other required qualifications for certification established pursuant to rules promulgated pursuant to section four of this article; or

(2) Is not a licensed ~~master~~ journeyman or master electrician in accordance with rules promulgated pursuant to section four of this article.

Following discussion,

At the request of Senator Palumbo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4803) was laid over one day, retaining its place on the calendar, with Senator Maynard's amendment pending.

**Eng. House Bill 4859**, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

**Eng. House Bill 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

Having been read a second time in earlier proceedings today, and now coming up in deferred order with the Military committee amendment pending (*shown in the Senate Journal of today, pages 1935 to 1938, inclusive*), was again reported by the Clerk.

The question being on the adoption of the Military committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 4589), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Weld, 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 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

**Eng. Com. Sub. for House Bill 4001**, Creating West Virginia Impact Fund.

**Eng. Com. Sub. for House Bill 4009**, Relating to the process for involuntary hospitalization.

**Eng. Com. Sub. for House Bill 4102**, Relating to opioid antagonists.

**Eng. House Bill 4375**, Speech-Language Pathologists and Audiologists Compact.

**Eng. Com. Sub. for House Bill 4439**, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.

**Eng. House Bill 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

**Eng. Com. Sub. for House Bill 4573**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

**Eng. Com. Sub. for House Bill 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

**Eng. Com. Sub. for House Bill 4892**, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold.

And,

**Eng. House Bill 4958**, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs.

The Senate proceeded to the thirteenth order of business.

Senator Maynard called attention to today being the birthday of the senator from Tucker and on behalf of the Senate extended felicitations and good wishes to Senator Smith.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Weld, at 1:34 p.m., the Senate recessed until 6:30 p.m. today.

The Senate reconvened at 6:59 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned 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 3rd day of March, 2020, 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. 2338)**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

**(H. B. 4411)**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.



(**H. B. 4477**), West Virginia Mutual to Mutual Insurance Holding Company Act.

(**H. B. 4600**), Relating to the definition of the term member regarding distributing premium tax proceeds.

And,

(**H. B. 4661**), Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

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 6**, Walter E. Swiger, Jr., Memorial Bridge.

And has amended same.

And,

**Com. Sub. for House Concurrent Resolution 33**, U.S.A.F. Lt Col Frederick Donald Belknap Memorial Bridge.

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

**Senate Concurrent Resolution 53**, Requesting study providing free feminine hygiene products to female students in grades six through 12.

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 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 9**, US Army SSG Nick P. Markos Memorial Bridge.

**Senate Concurrent Resolution 42**, US Army CPL Richard “Warren” Ellison Memorial Bridge.

**House Concurrent Resolution 4**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 13**, Watts Brothers Memorial Road.

**House Concurrent Resolution 14**, U. S. Army, Staff Sargent Wendell Otho Casto Memorial Bridge.

**House Concurrent Resolution 19**, Gold Star Families Highway.

**Com. Sub. for House Concurrent Resolution 32**, Wolfe Brothers, Edward, William, Paul, George and Fred, WW II Veterans Memorial Bridge.

**House Concurrent Resolution 34**, Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

And,

**House Concurrent Resolution 38**, U. S. Army PFC Nile C. Ballard Memorial Road.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 9 and 42, H. C. R. 4, 14, 19, 34, and 38, and Com. Sub. for H. C. R. 13 and 32) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, 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.

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 47**, Requesting study of effectiveness of current laws maintaining private roads.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 47) contained in the foregoing report from the Committee on Transportation and Infrastructure was then referred to the Committee on Rules.

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 2321**, Allowing workers' compensation benefits for first responders diagnosed with post-traumatic stress disorder.

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,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2646**, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2646) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 2775**, Requiring each high school student to complete a full credit course of study in personal finance.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4497**, Requiring an external defibrillator device at any secondary school athlete event.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2775 and 4497) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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. Com. Sub. for House Bill 2961**, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

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,

Charles H. Clements,  
*Chair.*

At the request of Senator Tarr, as vice 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 Transportation and Infrastructure.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2961) was taken up for immediate consideration, read a first time, and ordered to second reading.

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 3049**, Improving dissemination of boiled water advisories to affected communities.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3049) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4019**, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 4069**, West Virginia Student Religious Liberties 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 the Judiciary.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4069) was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4088**, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4088) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4094**, Continuing the Foster Care Ombudsman.

With an amendment from the Select Committee on Children and Families pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

And reports the same back with the recommendation that it do pass as amended by the Select Committee on Children and Families to which the bill was first referred.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 4165**, West Virginia Remembers Program.

Now on second reading, having been read a first time and referred to the Committee on Education on March 2, 2020;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

And has amended same.

**Eng. House Bill 4178**, Requiring calls which are recorded be maintained for a period of five years.

And has amended same.

**Eng. Com. Sub. for House Bill 4452**, Modifying the notice requirements for the redemption of delinquent properties.

And has amended same.

**Eng. House Bill 4607**, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4619**, Approving plans proposed by electric utilities to install middle-mile broadband fiber.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4176, 4452, and 4619, and Eng. H. B. 4178 and 4607) contained in the preceding report from the Committee on Government Organization were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4360**, Exempting certain persons from heating, ventilating, and cooling system licensing requirements.

**Eng. House Bill 4447**, Creating the shared table initiative for senior citizens who suffer from food insecurity.

**Eng. Com. Sub. for House Bill 4747**, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees.

**Eng. Com. Sub. for House Bill 4748**, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts.

And,

**Eng. Com. Sub. for House Bill 4823**, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4360, 4747, 4748, and 4823, and Eng. H. B. 4447) contained in the preceding report from the Committee on Government Organization were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4362**, Relating to penalties for neglect, emotional abuse or death caused by a caregiver.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4362) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4377**, The Protection of Vulnerable Adults from Financial Exploitation Act.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4388**, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4377 and 4388) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4406**, Relating to the reproduction of checks and other records.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4406) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4410**, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Michael T. Azinger,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4410) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4421**, Natural Gas Liquids Economic Development Act.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*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 4422**, The Patient Brokering Act.

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,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4422) 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 the Judiciary.

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 4484**, Relating to the Hazardous Waste Management Fund.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Randy E. Smith,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4484) contained in the preceding report from the Committee on Energy, Industry, and Mining was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4363**, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

With amendments from the Committee on Pensions pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

And reports the same back with the recommendation that it do pass as amended by the Committee on Pensions to which the bill was first referred.

Respectfully submitted,

Craig Blair,  
*Chair.*



Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4444**, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers.

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 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. 4444) contained in the preceding report from the Committee on Government Organization 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, with amendments from the Committee on Government Organization pending.

Senator Hamilton, 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 4499**, Relating to multicounty trail network authorities.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4499) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Eng. House Bill 4502**, Relating to insurance adjusters.

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 T. Azinger,  
*Chair.*

At the request of Senator Tarr, as vice 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 Banking and Insurance.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. H. B. 4502) was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Hamilton, 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 4514**, Permitting the use of leashed dogs to track mortally wounded deer or bear.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4514) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4535**, Relating to student aide class titles.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4535) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Hamilton, 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 4537**, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake.

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,

Bill Hamilton,  
*Chair.*

At the request of Senator Weld, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4537) 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 Finance.

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 4543**, Relating to insurance coverage for diabetics.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on Health and Human Resources on March 2, 2020;

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.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Health and Human Resources pending.

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 4618**, Relating to deadly weapons for sale or hire.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4618) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Hamilton, 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 4634**, Southern West Virginia Lake Development Study Commission Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4634) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4665**, Reducing the amount of rebate going to the Purchasing Improvement Fund.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4665) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4737**, Clarifying student eligibility for state-sponsored financial aid.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4737) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4797**, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4797) contained in the preceding report

from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4804**, Relating to comprehensive systems of support for teacher and leader induction and professional growth.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4804) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4946**, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.



Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4946) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

**Senate Resolution 61:** Senators Stollings and Lindsay;

And,

**Senate Resolution 62:** Senators Stollings, Rucker, Cline, and Lindsay.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 7:33 p.m., the Senate adjourned until tomorrow, Wednesday, March 4, 2020, at 10 a.m.

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WEDNESDAY, MARCH 4, 2020

The Senate met at 10:31 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Jerry Bias, Lay Pastor, Madison United Methodist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ron Stollings, a senator from the seventh district.

Pending the reading of the Journal of Tuesday, March 3, 2020,

At the request of Senator Smith, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 125**, Prohibiting victim from being subjected to certain physical examinations for sexual offenses.

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:

## **ARTICLE 8B. SEXUAL OFFENSES.**

### **§61-8B-11. Sexual offenses; evidence.**

(a) In any prosecution under this article in which the victim's lack of consent is based solely on the incapacity to consent because such victim was below a critical age, evidence of specific instances

of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admissible. In any other prosecution under this article, evidence of specific instances of the victim's prior sexual conduct with the defendant shall be admissible on the issue of consent: *Provided*, That such evidence heard first out of the presence of the jury is found by the judge to be relevant.

(b) In any prosecution under this article evidence of specific instances of the victim's sexual conduct with persons other than the defendant, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admissible: *Provided*, That such evidence shall be admissible solely for the purpose of impeaching credibility, if the victim first makes his or her previous sexual conduct an issue in the trial by introducing evidence with respect thereto.

(c) In any prosecution under this article, neither age nor mental capacity of the victim shall preclude the victim from testifying.

(d) At any stage of the proceedings, in any prosecution under this article, the court may permit a child who is 11 years old or less to use anatomically correct dolls, mannequins, or drawings to assist such child in testifying.

(e)(1) A court may not order or otherwise require an alleged victim in a prosecution for a sexual offense to submit to or undergo a gynecological or physical examination of the breasts, buttocks, anus, or any part of the sex organs.

(2) The refusal of an alleged victim to undergo an examination described in subdivision (1) of this subsection may not serve as the basis to exclude evidence obtained from other relevant examinations of the victim, except where constitutionally required.

(3) For the purposes of this subsection, the term "sexual offense" means any offense in which sexual intercourse, sexual contact, or sexual intrusion is an element of the offense, and

includes any prosecution under this article, §61-8-12, or §61-8D-5 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 125, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 125) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 125) 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 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 163**, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator.

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 the following:

## **ARTICLE 18. HOTEL OCCUPANCY TAX.**

### **§7-18-3. Definitions.**

For the purposes of this article:

(a) “Consideration paid” or “consideration” means the amount received in money, credits, property, or other consideration for, or in exchange for, the right to occupy a hotel room as herein defined.

(b) “Consumer” means a person who pays the consideration for the use or occupancy of a hotel room. The term “consumer” does not mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

(c) “Hotel” means any facility, building, or buildings, publicly or privately owned (including a facility located in a state, county,

or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term includes, but is not limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins, and tourist homes. The term “hotel” includes state, county, and city parks offering accommodations as herein set forth. The term “hotel” does not mean a hospital, sanitarium, extended care facility, nursing home, or university or college housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of 10 days in a calendar year, nor any tent, trailer, or camper campsites: *Provided*, That where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, the term “hotel” does, if otherwise applicable, apply to those accommodations for the purposes of this tax.

(d) “Hotel operator” means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor, or in any other capacity. Where the hotel operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent is a hotel operator for the purposes of this article and has the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent is, however, considered to be compliance by both.

(e) “Hotel room” means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term “hotel room” does not include:

(1) A banquet room, meeting room, or any other room not primarily used for, or in conjunction with, sleeping accommodations; or

(2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement for 30 days or longer at the

inception at a boarding house, condominium, cabin, tourist home, apartment, or home.

(3) Sleeping accommodations rented by a hotel operator to those persons directly employed by the hotel operator for the purposes of performing duties in support of the operation of the hotel or related operations.

(f) “Marketplace facilitator” shall have the same meaning as stated in W. Va. Code §11-15A-1(b)(8).

~~(f)~~ (g) “Person” means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator, or any other group or combination acting as a unit.

~~(g)~~ (h) “State park” means any state-owned facility which is part of this state’s park and recreation system established pursuant to this code. For purposes of this article, any recreational facility otherwise qualifying as a “hotel” and situated within a state park is considered to be solely within the county in which the building or buildings comprising the facility are physically situated, notwithstanding the fact that the state park within which the facility is located may lie within the jurisdiction of more than one county.

~~(h)~~ (i) “Tax”, “taxes”, or “this tax” means the hotel occupancy tax authorized by this article.

~~(i)~~ (j) “Taxing authority” means a municipality or county levying or imposing the tax authorized by this article.

~~(j)~~ (k) “Taxpayer” means any person liable for the tax authorized by this article.

**§7-18-4. Consumer to pay tax; hotel or hotel operator not to represent that it will absorb tax; accounting by hotel and marketplace facilitators.**

(a) The consumer shall pay to the hotel operator the amount of tax imposed by any municipality or county hereunder, which tax shall be added to and shall constitute a part of the consideration paid for the use and occupancy of the hotel room, and which tax shall be collectible as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy or use of a hotel room. The hotel operator may commingle taxes collected hereunder with the proceeds of the rental of hotel accommodations unless the taxing authority shall, by ordinance, order, regulation or otherwise require in writing the hotel operator to segregate such taxes collected from such proceeds. The taxing authority's claim shall be enforceable against, and shall be superior to, all other claims against the moneys so commingled excepting only claims of the state for moneys held by the hotel pursuant to the provisions of article fifteen, chapter eleven of this code. All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the hotel until the same shall have been remitted to the taxing authority as hereinafter provided.

(b) Where a hotel or hotel operator contracts with a marketplace facilitator to offer the use or occupancy of a hotel room, such marketplace facilitator shall be responsible, on behalf of the hotel or hotel operator, for the collection and remittance of the tax imposed by any municipality or county hereunder. The marketplace facilitator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room. All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the marketplace facilitator, on behalf of the hotel or hotel operator, until the same has been remitted by the marketplace facilitator to the State Tax Division as hereinafter provided. Nothing in this paragraph shall



be construed to interfere with the ability of a marketplace facilitator and a hotel or hotel operator to enter into an agreement regarding fulfillment of the requirements of this chapter.

~~(b)~~ (c) A hotel or hotel operator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not to be considered an element in the price to be collected from the consumer.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 163**—A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to taxation of hotel rooms booked through a marketplace facilitator; defining marketplace facilitator; providing for collection and remittance of the tax imposed by any municipality or county by a marketplace facilitator; making the marketplace facilitators responsible for collection and remittance of the tax imposed by any municipality or county; requiring the marketplace facilitator to separately state the tax on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room; deeming all taxes collected be held in trust by the marketplace facilitator until remitted; and permitting marketplace facilitators and hotels or hotel operators to enter into agreements regarding fulfillment of the requirements of the chapter.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 163, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 163) 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 208**, Protecting consumers from unfair pricing practices during state of emergency.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 545**, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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 sixteen, line twenty-three, by striking out the word "The" and inserting in lieu thereof the words "During the fiscal years beginning July 1, 2019, and July 1, 2020, the".

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 545, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 545) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 545) 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 concurrence by that body in the passage of

**Eng. Senate Bill 569**, Expiring funds from various accounts to DHHR, Medical Services Program Fund.

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 570**, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund.

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. Senate Bill 651**, Relating to definition of “mortgage loan originator”.

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 two, line fifty-four, by striking out the word “section” and inserting in lieu thereof the word “subsection”;

On page three, section two, line sixty-four, by striking out the word “section” and inserting in lieu thereof the word “subsection”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 651**—A Bill to amend and reenact §31-17A-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of “mortgage loan originator”; and clarifying the definition of “mortgage loan originator” with respect to retailers of manufactured or modular homes and their employees.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 651, 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, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 651) 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 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment

to the House of Delegates amendment to, and the passage as amended, of

**Eng. Senate Bill 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

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 804**, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund.

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 805**, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund.

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 806**, Supplemental appropriation out of federal funds in Treasury to DOT.

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 amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

On page one, section thirteen-b, line one, by striking out the words “2023, or as soon thereafter as the provisions of this subsection can be implemented without conflicting with any of its existing agreements, including but not limited to covenants under any trust agreement securing bonds related to the turnpike or tolls” and inserting in lieu thereof “2022”.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendment to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 4083) and requested the House of Delegates to recede therefrom.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

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 4090**, Creating the Oil and Gas Abandoned Well Plugging Fund.

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, of

**Eng. Com. Sub. for House Bill 4434**, West Virginia health care workforce sustainability study.

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, of

**Eng. Com. Sub. for House Bill 4464**, Relating to driving privileges and requirements for persons under the age of 18.

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, of

**Eng. House Bill 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

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. House Bill 4529**, Relating to the collection of assessments and the priority of liens on property within a resort area.

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, of

**Eng. Com. Sub. for House Bill 4544**, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

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, of

**Eng. House Bill 4559**, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

The Senate proceeded to the fourth order of business.



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 3098**, Allowing the same business owner to brew and sell beer to also distill and sell liquor.

And has amended same.

**Eng. Com. Sub. for House Bill 4560**, Relating to deliveries by a licensed wine specialty shop.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4852**, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 3098, 4560, and 4852) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4092**, Relating to foster care.

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 Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4092) contained in the preceding report from the Committee on the Judiciary 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 the Judiciary pending.

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 4509**, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support.

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.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4509) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4717, Seizure and Forfeiture Reporting Act.**

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4717) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Hamilton, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Com. Sub. for House Concurrent Resolution 75**, Naming the highest peak on Wolf Creek Mountain in Monroe County, Boone's Peak.

And has amended same.

And reports the same back with the recommendation that it be adopted, as amended; but under the original double committee reference first be referred to the Committee on Rules.

Respectfully submitted,

Bill Hamilton,  
*Chair.*

The resolution, under the original double committee reference, was then referred to the Committee on Rules, with an amendment from the Committee on Natural Resources pending.

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 4003**, Relating to telehealth insurance requirements.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4003) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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. Com. Sub. for House Bill 4017**, Establishing country roads accountability and transparency.

And reports the same back without recommendation as to passage; but with the recommendation that it be rereferred to the Committee on Transportation and Infrastructure.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4017) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration, read a first time, and ordered to second reading.

At the further request of Senator Takubo, and by unanimous consent, the bill was rereferred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the sixth order of business.

Senator Prezioso offered the following resolution:

**Senate Concurrent Resolution 58**—Requesting the Joint Committee on Health study the issue of sexual violence in the State of West Virginia, as well as the efficacy of our funding structure to support rapid response and victim assistance.

Whereas, The number one reason for incarceration in the West Virginia Division of Corrections and Rehabilitation is sexual assault; and

Whereas, Lack of state funding has created service gaps in our prisons because they cannot meet federal mandates regarding access to outside sexual assault services; and

Whereas, Women in West Virginia are more likely to be a survivor of sexual assault than cancer; and

Whereas, One quarter of West Virginia counties have no state-funded rape crisis services; and

Whereas, Nurses and doctors must be specially trained in how to conduct and collect rape kits and DNA evidence; and

Whereas, Hospitals in this state, especially in rural areas, are closing doors and reducing services; and

Whereas, All metrics for the first quarter of FY 2020 show an increased demand for these services; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Health is hereby requested to study the issue of sexual violence in the State of West Virginia, as well as the efficacy of our funding structure to support rapid response and victim assistance; and, be it

*Further Resolved*, That the study include the issue of sexual violence in West Virginia, the role of rape crisis centers, the high level of sex offenders, and the inequity of addressing victim needs,

as well as the efficacy of state funding towards the needs the committee may find; and, be it

*Further Resolved*, That the Joint Committee on Health report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Romano and Facemire offered the following resolution:

**Senate Concurrent Resolution 59**—Requesting the Division of Natural Resource to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the “Rachel Hershey Smith Memorial Shelter”.

Whereas, Watters Smith was born in Trenton, New Jersey, on July 15, 1767; and

Whereas, Watters Smith married Elizabeth Davisson, and settled in Harrison County on his father’s 1,000-acre tract of land, in what was then the state of Virginia; and

Whereas, Watters Smith purchased 112 acres adjacent to his father’s land in 1792; and

Whereas, Watters Smith and Elizabeth Davisson Smith cleared the rugged, remote land, planted crops, and built a cabin for their family, which eventually grew to eight children; and

Whereas, Watters Smith constructed a blacksmith, shop fashioning tools to build his cabin; and

Whereas, Upon the death of Watters Smith, the property was bequeathed to Watters Smith, Jr., who then bequeathed the property to his son, John Smith; and

Whereas, Ownership of the property eventually fell to Alexander Smith, who was born in 1847, and who built the home now known as the Smith family residence, to replace the original cabin built by Watters Smith; and

Whereas, Four generations of the Smith family operated the farm as a business; and

Whereas, Burr Smith, the great-great-grandson of Watters Smith, left his portion of the Watters Smith property to the State of West Virginia in 1949 to be developed into a park to honor his ancestors; and

Whereas, Rachel Smith Hershey, a life-long resident of Harrison County and descendant of Watters Smith, also generously donated her portion of the Watters Smith property to the State of West Virginia in 1975; and

Whereas, The park has become a permanent location for many of the tools and equipment used by generations of Smiths on the farm, and they are on display at the Smith homestead, in the museum, and outbuildings; and

Whereas, Rachel Smith Hershey added antiques, furnishings, and a sizable collection of West Virginia glassware in further generous donations to the park; and

Whereas, Watters Smith Memorial State Park now comprises of 532 acres and includes the museum, the Smith family residence, and many other historical buildings; and



Whereas, The Watters Smith Memorial State Park includes amenities such as picnic areas and shelters, playgrounds, hiking trails, a superintendent's house, and a log cabin relocated from Beech Fork State Park; and

Whereas, The State of West Virginia will continue adding and improving amenities to Watters Smith Memorial State Park including planned construction of a deluxe special event shelter with a kitchen, restroom, and amphitheater to serve not only the citizens of that area but also tourists from around the nation; and

Whereas, It is indisputable that without the generous donations by generations of Watters Smith's family, the citizens of the State of West Virginia would not have the pleasure and benefit of the park, including the authentic Smith homestead and displays of early life in West Virginia from the late 1700s to the early 1900s; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Natural Resources is hereby requested to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the "Rachel Hershey Smith Memorial Shelter"; and, be it

*Further Resolved,* That the Division of Natural Resources is hereby requested, on completion of the shelter, to have made and be placed signs identifying the shelter as the "Rachel Smith Hershey Memorial Shelter"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the Division of Natural Resources.

Which, under the rules, lies over one day.

Senator Rucker offered the following resolution:

**Senate Concurrent Resolution 60**—Requesting the Joint Committee on Government and Finance to study the eating patterns of public school students when outside of school and the availability of nutritious food to public school students when schools are closed.

Whereas, The Feed to Achieve Initiative has successfully improved the availability and awareness for the need to provide nutritious food to state students, and the Shared Table Initiative has facilitated a spirit of innovation and consciousness in our counties to find alternative ways to feed children in need; and

Whereas, A periodic assessment of the needs for county students and availability of county resources is necessary to determine what type of resources are available and needed to reduce food insecurity for students when they are not in school; and

Whereas, That expansion of the Shared Table Initiative to include a program to encourage county schools to locate, participate in, and initiate programs to provide meals during summers and nonschool-day times when some children may not have access to healthy meals could assist in reducing food insecurity for thousands of children in this state; and

Whereas, Creating a mechanism that is not a directive from the Legislature upon county school boards, but rather an authorization to use school resources to find innovative ways, within the means of the county school systems, to assist the communities they serve, will provide a public benefit; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the eating patterns of public school students when outside of school and the availability of nutritious food to public school students when schools are closed; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance enlist the assistance of the West Virginia Office of Child Nutrition to assist and facilitate the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance investigate the efficacy of requiring county boards of education to collect and compile information regarding availability of food resources in the county during nonschool days and distribute this information to all students; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance investigate whether county boards of education should be required to investigate and implement any program that may facilitate an initiative to provide nutritious food to students, including but not limited to, entrepreneurship programs to foster innovation in providing assistance, utilizing participation in programs as a positive discipline option, and creating mentorship programs or other opportunities to participate in nonschool student feeding programs; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance investigate the efficacy of requiring county school boards to conduct an annual countywide or a coordinated regional training opportunity, with assistance from the West Virginia Office of Child Nutrition, that ensures that any entity that qualifies as a summer or nonschool-day feeding site is afforded the opportunity to receive training on operation of a feeding site; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Carmichael (Mr. President) offered the following resolution:

**Senate Resolution 66**—Recognizing the month of March as Red Cross Month.

Whereas, In the face of last year's disasters, hundreds of thousands of people turned to the American Red Cross for food, shelter, and recovery support in West Virginia and across the country; and

Whereas, Over the past year, the American Red Cross in West Virginia assisted over 1,000 local families impacted by a disaster, 90 percent of those were home fires. American Red Cross volunteers helped more than 2,664 West Virginians impacted by disaster, addressing urgent needs such as food and lodging, and providing recovery support; and

Whereas, The American Red Cross West Virginia Region and local partners installed over 6,000 free smoke alarms and made more than 2,700 homes safer in 2019. This brought the total number of alarms installed in West Virginia in the last five years to over 28,000, ensuring nearly 11,000 homes were safer. These efforts have saved 699 lives nationwide including 29 people in West Virginia; and

Whereas, In the last year, the American Red Cross has educated nearly 4,000 West Virginia youth about preparedness and coping skills through the Pillowcase Project. The American Red Cross supported over 1,000 military members, veterans, and their families through the Service to the Armed Forces Program. The American Red Cross collected almost 36,000 units of life-saving blood and trained almost 24,000 people in life-saving skills, such as first aid and CPR; and

Whereas, March is Red Cross Month, a special time to recognize and thank the Red Cross volunteers and donors who give of their time and resources to help members of the community. The

American Red Cross depends on these local heroes to deliver help and hope. We applaud our Red Cross heroes here in West Virginia, who give of themselves to assist their neighbors when they need a helping hand; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the month of March as Red Cross Month; and, be it

*Further Resolved,* That the Senate extends its most sincere gratitude and appreciation to the American Red Cross, West Virginia Region, for its dedicated public service; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the representatives of the American Red Cross, West Virginia Region.

Which, under the rules, lies over one day.

Senators Weld and Maroney offered the following resolution:

**Senate Resolution 67**—Designating March 5, 2020, as Treatment Court Day in West Virginia.

Whereas, The first adult drug court was established in the northern panhandle in 2005, and there currently are 29 adult drug courts serving 46 counties; and

Whereas, The first juvenile drug court was established in 1999 in Cabell County, ran for six years, and was reestablished in 2007. There are currently 18 juvenile drug courts serving 24 counties; and

Whereas, In 2019, the Legislature reestablished military service member treatment courts; and

Whereas, The first family drug treatment courts were established in Boone, Ohio, and Randolph counties in 2019, and

now additional family treatment courts have opened in Roane and Nicholas counties; and

Whereas, There are have been more than 2,500 treatment court graduates and another 716 West Virginia adults and youths currently participating in the programs; and

Whereas, Treatment courts are now praised as one the most successful justice system interventions in our nation's history; and

Whereas, Treatment courts significantly improve substance use disorder treatment outcomes, substantially reduce addiction and related crime, and do so at less expense than many other criminal justice strategies; and

Whereas, Treatment courts have been shown to save the state money for every individual who successfully completes the program; and

Whereas, Circuit judges and family court judges throughout West Virginia devote their time at no additional pay to establish and operate treatment courts, with the help of full-time, dedicated treatment court probation officers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 5, 2020, as Treatment Court Day in West Virginia; and, be it

*Further Resolved,* That the Senate hereby recognizes the considerable contributions of treatment courts to the State of West Virginia; and, be it

*Further Resolved,* That the Senate hereby acknowledges that adult, juvenile, family, and military service member treatment courts save lives, restore families, and are a prudent use of state resources; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Supreme Court of Appeals.

Which, under the rules, lies over one day.

Senators Hamilton and Pitsenbarger offered the following resolution:

**Senate Resolution 68**—Recognizing the Buckhannon-Upshur 4-H Air Rifle Club for excellence in marksmanship.

Whereas, The Buckhannon-Upshur 4-H Air Rifle Club competed in the West Virginia University 4-H State Individual Tournament on Saturday, February 15, 2020; and

Whereas, The Buckhannon-Upshur's 4-H Senior Air Rifle first team, comprised of shooters, Clint Crites, Olivia Caynor, and Ryan Bosley, earned its first state title at this competition and is currently ranked first in this state; and

Whereas, Olivia Caynor placed fourth in the state in the individual competition and will represent her team and state at the national competition in Nebraska in June 2020; and

Whereas, The Buckhannon-Upshur's 4-H Senior Air Rifle second team, comprised of shooters, Breanna Morgan, Sam Canter, and Dani Hovis, placed fourth in the state competition; and

Whereas, The Buckhannon-Upshur Middle School Air Rifle team is comprised of Samantha Sparks, Ryleigh Jeffries, and Leah Bennett, and is currently ranked third in the state; and

Whereas, The Buckhannon-Upshur 4-H Air Rifle Club is led by coach Russ Warner, assistant coach Dave Riffle, and 4-H Extension Agent Craig Presar; and

Whereas, The Buckhannon-Upshur 4-H Air Rifle Club will be forever remembered as one of the best 4-H rifle clubs in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate recognizes the Buckhannon-Upshur 4-H Air Rifle Club for excellence in marksmanship; and, be it

*Further Resolved,* That the Senate extends its congratulations to these sharp shooters and their coaches for their outstanding achievements; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Buckhannon-Upshur 4-H Air Rifle Club.

Which, under the rules, lies over one day.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Concurrent Resolution 61** (originating in the Committee on Economic Development)—Requesting the West Virginia Geological Survey and the Office of Geographical Information Systems (GIS) Coordination to research, study, and make recommendations regarding a state-administered GIS for West Virginia communities with less than 5,000 inhabitants.

Whereas, Geographical Information Systems (GIS) are currently being used and developed across West Virginia by local, state, and federal agencies, as well as the business community, serving as a valuable medium for assembling, manipulating, and displaying geographically referenced material, aiding in development planning, resource management, and scientific investigation in the state; and



Whereas, The management of geospatial information about the character and location of natural and cultural resources, and the human and economic activities that affect and are affected by those resources, is essential to all levels of government in the State of West Virginia; and

Whereas, There is a need to plan and prioritize the development of publicly funded data, define the roles and responsibilities for data development and stewardship, and formulate policies for integration, access, and distribution of geospatial data, and to develop standards, policies, and guidelines for the use of geospatial information by the state, other units of government, and private and nonprofit entities; and

Whereas, Executive Order No. EO 4-93 provided direction to the State GIS Program created by order and reaffirmed by EO 10-10 which further revised the duties and responsibilities of the State GIS Coordinator, the GIS Steering Committee, and the GIS Technical Center created by the same order; and

Whereas, Making GIS data, applications, software, and hardware more available statewide, particularly for communities with a low population and low resourced governmental agencies which are not in a position to implement GIS programs, the creation of a State GIS support program that supports this effort is paramount to the economic development of these communities and the state; and

Whereas, The cost of development, installation, and maintenance a stand-alone GIS is high; and

Whereas, Determining and formalizing the roles of the West Virginia Geological and Economic Survey, the Office of GIS Coordination, the GIS Technical Center, and regional organizations with GIS expertise to provide GIS services and support to users around the state that currently have limited access to GIS data, software, hardware, and applications would support a statewide effort; and

Whereas, In this context, some states are considering, as a means to ameliorate the cost of GIS, the establishment of support programs where licensed software, hardware, and training are more affordable to small municipal and county governments; and

Whereas, The effective use of an installed GIS system would require hardware, software, trained personnel, and high-speed broadband; and

Whereas, Mississippi has a master purchase agreement (MPA) with a major GIS software provider on behalf of Mississippi governmental and educational entities; furthermore, a small municipal and county enterprise license agreement (ELA) was added to the Mississippi MPA terms and conditions. The ELA is a three-year limited term license as opposed to the perpetual licenses purchased under the MPA. The price list is not-to-exceed prices and incorporate a quantity discount based upon Mississippi volume; and

Whereas, It appears that there are many issues related to acquiring such a license in West Virginia which involve legal and economic variables which are yet unknown; and

Whereas the suitability of a state-administered GIS support program, and the monitoring, implementation, licensing, training, outreach, and other issues relating to the state-administered GIS support system is paramount to the economic development of small counties and municipalities in West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the West Virginia Geological Survey and the Office of Geographical Information Systems (GIS) Coordination to research, study, and make recommendations regarding a state-administered GIS for West Virginia communities with less than 5,000 inhabitants; and, be it

*Further Resolved,* That the West Virginia Geological Survey and the Office of GIS Coordination report to the Joint Committee

on Economic Development, by October 1, 2020, and the Joint Committee on Economic Development report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Chandler Swope,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 61) contained in the foregoing report from the Committee on Economic Development was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 6**, Walter E. Swiger, Jr., Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The following amendment to the resolution, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

On page two, in the eighth Whereas clause, after the word “November” by striking out “5” and inserting in lieu thereof “7”.

The question now being on the adoption of the resolution (S. C. R. 6), as amended, 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.

**Senate Concurrent Resolution 57**, Frye Brothers Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Resolution 63**, Designating March 4, 2020, as Recovery Community Day.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

On motion of Senator Takubo, at 11:01 a.m., the Senate recessed for 10 minutes.

The Senate reconvened at 11:38 a.m. and resumed consideration of

**Senate Resolution 63**, Designating March 4, 2020, as Recovery Community Day.

The question being on the adoption of the resolution, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 63) adopted.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senate Resolution 63 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senators Baldwin and Romano regarding the adoption of Senate Resolution 63 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:52 a.m., the Senate recessed to present Senate Resolution 63.

The Senate reconvened at 11:57 a.m. and resumed business under the seventh order.

**Senate Resolution 64**, Recognizing efforts of Kanawha State Forest Foundation.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Lindsay, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Lindsay regarding the adoption of

Senate Resolution 64 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:00 p.m., the Senate recessed to present Senate Resolution 64.

The Senate reconvened at 12:03 p.m. and resumed business under the seventh order.

**Senate Resolution 65**, Designating WV State Folk Festival as official site of WV State Pepperoni Roll Championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Romano, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

**Com. Sub. for House Concurrent Resolution 33**, U.S.A.F. Lt Col Frederick Donald Belknap Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

By striking out everything after the title and inserting in lieu thereof the following:

Whereas, Frederick Donald Belknap was born July 31, 1929, on a farm on Little Tenmile Creek, two miles west of Wallace, in Harrison County, West Virginia. His parents were Dewey and Thelma Belknap. He graduated from Wallace High School in 1948 and attended West Virginia University from 1948-1952, where he worked as a waiter in Terrace Hall, a women's residence hall, to earn his meals; and

Whereas, Upon graduation from West Virginia University with a bachelor's degree in education, Frederick Donald Belknap was commissioned a second lieutenant in the United States Air Force, having participated in reserve officer training while at the university; and

Whereas, Frederick Donald Belknap married Hester "Hedy" Ogden, also of Wallace, West Virginia, on September 10, 1951. The couple had one child, Dianne Lynne Belknap Lunsford; and

Whereas, Frederick Donald Belknap enjoyed a 25-year-long career in the Air Force, being trained as a navigator, graduating first in his class, later rated Master Navigator, and rising to the rank of lieutenant colonel; and

Whereas, During his career USAF Lt. Col. Belknap flew missions worldwide in C124 "GlobeMaster" aircraft, participating in troop carrier and cargo missions to Germany and the rest of Europe, and

Whereas, In 1957, Lt. Col. Belknap was involved in airlifting U.S. Marines to Lebanon on orders of President Dwight D. Eisenhower, and carried out other missions in Greece, Egypt, Jordan, Libya, and Morocco, and

Whereas, In 1959, Colonel Belknap was trained as a missile launch officer and served as a Nuclear Missile Launch Officer in Germany from 1961 to 1964. Following various assignments stateside, Colonel Belknap was assigned to Saigon, Vietnam, in 1970 where he served as psychological warfare officer with the Joint United States Public Affairs Office until June of 1971; and

Whereas, Upon returning from Vietnam, Colonel Belknap was assigned to Langley Air Force Base in Hampton, Virginia, from where he flew missions in Southeast Asia. At the time of his retirement in 1977, Colonel Belknap had flown all over the world for more than 6,000 hours (including more than 88 hours of combat missions) in C124, C119, and C130 aircraft, and had been awarded the Bronze Star; and

Whereas, After his Air Force career, Colonel Belknap and his wife returned to Harrison County, where he served as personnel coordinator for District 4 of the West Virginia Department of Highways from 1978 to 1989. He was a member of the West Milford Lions Club and VFW and served as a leader for his grandson's Boy Scout troop and was inducted into the Order of the Arrow. He enjoyed hunting, fishing, gardening, camping, gathering with old friends from all over, and attending Mountaineer football games, and

Whereas, USAF Lt. Col. Belknap died on February 23, 2017, at the age of 87, having lived a life of service to his country, his community, and his family; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-79-119.96 (17A318), locally known as Lodgeville I-79 Bridge, carrying IS 79 over CR 50/16, 50/25 and railroad in Harrison County, the "USAF Lt. Col. Frederick Donald Belknap Memorial Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as the "USAF Lt. Col. Frederick Donald Belknap Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk forward a copy of this resolution to the Commissioner of the Division of Highways.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Com. Sub. for House Concurrent Resolution 33—**Requesting the Division of Highways to name bridge number 17-79-119.96 (17A318), locally known as Lodgeville I-79 Bridge, carrying Interstate 79 over CR 50/16, 50/25 and railroad in



Harrison County, the “USAF Lt. Col. Frederick Donald Belknap Memorial Bridge”.

The question now being on the adoption of the resolution (Com. Sub. for H. C. R. 33), as amended, 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.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate second reading calendar **Eng. Com. Sub. for House Bill 2775, Eng. Com. Sub. for House Bill 2961, Eng. Com. Sub. for House Bill 2967, Eng. Com. Sub. for House Bill 4069, Eng. Com. Sub. for House Bill 4102, Eng. Com. Sub. for House Bill 4108, Eng. House Bill 4159, Eng. Com. Sub. for House Bill 4176, Eng. House Bill 4354, Eng. Com. Sub. for House Bill 4362, Eng. Com. Sub. for House Bill 4377, Eng. Com. Sub. for House Bill 4395, Eng. Com. Sub. for House Bill 4439, Eng. House Bill 4447, Eng. Com. Sub. for House Bill 4497, Eng. House Bill 4514, Eng. House Bill 4523, Eng. Com. Sub. for House Bill 4535, Eng. Com. Sub. for House Bill 4573, Eng. House Bill 4607, Eng. Com. Sub. for House Bill 4634, Eng. House Bill 4665, Eng. House Bill 4737, Eng. Com. Sub. for House Bill 4747, Eng. Com. Sub. for House Bill 4748, Eng. House Bill 4777, Eng. Com. Sub. for House Bill 4803, Eng. House Bill 4804, Eng. Com. Sub. for House Bill 4823, Eng. Com. Sub. for House Bill 4892, Eng. Com. Sub. for House Bill 4946, and Eng. House Bill 4958.**

Senator Takubo also announced that in the same meeting, the Committee on Rules had returned to the Senate calendar, on second reading, **Eng. Com. Sub. for House Bill 4378** and **Eng. House Bill 4960** under Rule 17 of the Rules of the Senate.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 854**, Expiring funds to Division of Culture and History from Auditor's Office, Purchasing Card Administration Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 854) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 854) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 855**, Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor's Office, Purchasing Card Administration Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 855) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 855) takes effect from passage.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 856**, Expiring funds from WV Development Office, Synthetic Fuel, Producing County Fund to Market and Communications Operating Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 856) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 856) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 2892**, Including digital and virtual information in the definition of property that can be searched and seized by a warrant.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2892) 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 2892**—A Bill to amend and reenact §62-1A-2 of the Code of West Virginia, 1931, as amended, relating to including electronic and digital information in the definition of property that can be searched and seized by a search warrant and clarifying that a search warrant issued for a computer,

computer network, or other device containing electronic or digital information includes the search of the contents of that device; requiring particularity regarding items, applications, property and information to be served; clarifying that search warrants for electronic or digital information may be served or executed in any county of this state or in any state where the information to be seized is stored or where the person or entity storing the information does business or resides.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2892) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Rucker, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Rucker, the following amendment to the bill was reported by the Clerk and adopted:

On page two, section five, lines twenty-five through twenty-seven, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) The commission sets the chancellor's salary. The salary may not exceed by more than 20 percent the average annual salary of the chief executive officers of state systems of higher education in the states that comprise the membership of the Southern Regional Education Board. Pursuant to §6B-2-5(1) of this code, the chancellor may receive only one form of salary if such person serves as the chancellor for both the higher education policy commission and the council for community and technical colleges.

Having been engrossed, the bill (Eng. H. B. 4022), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Beach and Prezioso—2.

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. 4022) passed.

On motion of Senator Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. House Bill 4022**—A Bill to amend and reenact §18B-1B-5 of the Code of West Virginia, 1931, as amended, clarifying the qualifications of the Chancellor of the Higher Education Policy Commission; modifying provisions pertaining to salary of Chancellor of the Higher Education Policy Commission; retitling

the Vice Chancellor for Health Sciences; and abolishing the statutory position of Vice Chancellor for State Colleges.

*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 4099**, Eliminating the permit for shampoo assistants.

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 4099 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4099) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4113**, Relating to motor fuel excise taxes.

On third reading, coming up in regular order, was read a third time and put upon its passage.



On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4113) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. House Bill 4113**—A Bill to amend and reenact §11-14C-9 and §11-14C-30 of the Code of West Virginia, 1931, as amended, all relating to refundable exemptions from tax on motor fuels generally; extending certain refundable exemption from tax to tax on motor fuel used in a power take-off unit on a fuel delivery truck; and expanding certain refundable exemptions from tax on motor fuel claimable by certain taxpayers to include the variable rate component of the tax.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4113) takes effect July 1, 2020.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4396**, Relating to reporting suspected governmental fraud.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4396) passed with its title.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4409**, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4409) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. House Bill 4409**—A Bill to amend and reenact §33-3-33a of the Code of West Virginia, 1931, as amended, relating to transferring funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund to the Fire Service Equipment and Training Fund; and extending the sunset date to June 30, 2022.

*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 4414**, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children.

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 4414 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4414) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4414**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20, relating to authorizing certain modes of communication as a means for acquiring language for children from birth to five years of age; making implementation subject to appropriation by the Legislature; requiring reporting of measures specific to language and literacy for children age three to five to advisory committee; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to jointly select language developmental milestones from existing standardized norms, to develop a family resource for use by families and service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to prepare a list of valid and reliable existing tools for assessments for service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children; requiring dissemination of the family resource and the educator tools and assessments, as well as the provision of informational materials on the use of the resources, tools, and assessments; imposing certain

requirements on the child's individualized family service plan team and individual education program team if a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to establish an advisory committee to solicit input from certain stakeholders on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing for inclusion in the family resource; setting forth membership of advisory committee; requiring the West Virginia Department of Education to annually produce an aggregated report that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age; and requiring that all of certain activities be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information.

*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 4415**, Relating to missing and endangered children.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4415) passed.

The following amendment to the title of the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4415**—A Bill to amend and reenact §15-3D-3 and the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §15-3D-9; to amend and reenact §49-6-103, §49-6-105, §49-6-106, §49-6-109, §49-6-110, §49-6-112, §49-6-113, and §49-6-114; and to amend said code by adding thereto a new section, designated §49-6-116, all relating to children; defining terms; creating missing and endangered child advisory system; providing for rulemaking; expanding missing child information clearinghouse requirements; updating requirements for providing information; updating requirements for missing child report forms; requiring law-enforcement agency to investigate and issue advisory; providing for confidential information to be provided to Department of Health and Human Resources as legal custodian; updating clearinghouse advisory council; updating comprehensive strategic plan; establishing missing foster child locator unit program; establishing duties; providing for report; and making technical changes.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4417**, Relating to permitting professional boards.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4417) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4519**, Establishing a summer youth intern pilot program within Department of Commerce.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4519) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4546**, Relating to tuberculosis testing for school superintendents.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4546) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4551**, Relating to subsidized adoption.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4551) passed.

The following amendment to the title of the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

**Eng. House Bill 4551**—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to subsidies; providing for adoption subsidies; providing for legal guardianship subsidies; updating availability; requiring payment for attorney's fees; updating requirements for insurance coverage; requiring certification; eliminating requirements with respect to child who is dependent of voluntary licensed child placing agency; prohibiting subsidy payment under certain circumstances; requiring adoptive parents and legal guardians receiving subsidy to inform department; and making technical changes.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

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 House Bill 4589 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4589) passed.

The following amendment to the title of the bill, from the Committee on Military, was reported by the Clerk and adopted:

**Eng. House Bill 4589**—A Bill to amend and reenact §29-1-3 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that the Commission on the Arts prioritize a women’s veterans memorial statue; and causing a requiring a study and recommendations by the Commission on the Arts on the construction and design of a memorial to honor West Virginians killed in the United States War on Terror.

*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 4593**, Authorizing the assignment of poll workers to serve more than one precinct under certain circumstances.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4593) 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 4593**—A Bill to amend and reenact §3-1-5 and §3-1-30 of the Code of West Virginia, 1931, as amended, all relating to authorizing the assignment of members of a standard receiving board to serve on the standard receiving board for more than one precinct in certain circumstances.

*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 4621**, West Virginia FinTech Regulatory Sandbox 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4621) passed.

The following amendment to the title of the bill, from the Committee on Economic Development, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to the West Virginia FinTech Regulatory Sandbox Program; defining terms; providing that the program shall be administered by the West Virginia Division of Finance, establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without otherwise being licensed under the laws of the state; establishing scope of the ability to operate approved financial products or services without a license; providing consumer protections; establishing time limitations on the ability to operate approved financial products or services without a license; providing reporting requirements; and providing for rulemaking; and directing the Division of Financial Institutions to provide annual reports to the legislature and which shall be made available on the division's website.

*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 4633**, Expanding county commissions' ability to dispose of county or district property.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4633) passed.

On motion of Senator Maynard, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4633**—A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions' ability to dispose of county or district property; and adding the ability of county commissions to dispose of the property to community center organization in existence on effective date of amendment to this section of said code or nonprofit senior center organization without conducting a public sale.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4655**, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4655) passed.

The following amendment to the title of the bill, from the Committee on Military, was reported by the Clerk and adopted:

**Eng. House Bill 4655**—A Bill to amend and reenact §16-4C-8 of the Code of West Virginia, 1931, as amended, relating to automatic certification as an emergency medical technician-paramedic or emergency medical technician-basic upon application; providing that an applicant may have previously served in any branch of the United States military, National Guard, Coast Guard, or the Reserve Components of the Armed Services; providing that an applicant must have been honorably discharged within two years of application; providing for similar military job titles that bear a rational nexus to the training and education required by the commissioner to be certified as a paramedic or emergency medical technician; providing that the commissioner must issue a license upon review of the application; and providing that if an individual permits a certification to expire the commissioner may require examination as a condition of recertification.

*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 4666**, Relating to competitive bids for intergovernmental relations and urban mass transportation.

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 4666 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4666) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4691**, Relating to employment in areas of critical need in public education.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4691) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4691) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4714**, Increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4714) passed with its title.



*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4780**, Permitting county boards to offer elective courses of instruction on the Bible.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion and a point of inquiry to the President, with resultant response thereto,

The question being “Shall Engrossed Committee Substitute for House Bill 4780 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Baldwin, Ihlenfeld, and Palumbo—3.

Absent: Beach—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. 4780) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4859**, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4859) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 2646**, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

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 5. WAGE PAYMENT AND COLLECTION.**

### **§ 21-5-4a. Safe Harbor.**

(a) An employee, in bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment as contemplated by §21-5-4

of this code, is not entitled to seek liquidated damages or attorney's fees from an employer without first making a written demand, as defined in subsection (c) of this section, to the employer seeking the payment of any alleged underpayment or nonpayment as set forth in this section: *Provided*, That upon separation or with the issuance of the final paycheck, the employer shall notify the employee in writing who the employer's authorized representative is and where to send a written demand by both e-mail and regular mail: *Provided however*, that if the employer fails to provide the required written notice, the employee is not required to comply with the provisions of this section. Upon receiving a written demand, the employer has seven calendar days from receipt to correct the alleged underpayment or nonpayment of the wages and fringe benefits due. If, after seven days, the employer has not corrected the alleged underpayment or nonpayment, or paid all undisputed amounts due to the employee, the employee may seek liquidated damages and attorney's fees. Nothing in this section prohibits the employee from presenting a claim under this article without making a written demand to the employer.

(b) In a class action lawsuit brought under this article for the underpayment or nonpayment of wages and fringe benefits due upon the employees' separation of employment, the employee, prior to the filing of the class action, shall submit a written demand stating it is a demand for all other employees similarly situated for the underpayment or nonpayment of their wages and fringe benefits: *Provided*, That if only the underpayment or nonpayment of wages and fringe benefits of the named employee is corrected, a class action may proceed for the underpayment or nonpayment of wages and fringe benefits still owed to the other members of the class.

(c) For purposes of this section, a "written demand" means any writing, including e-mail, from or on behalf of an employee stating that the employer has not paid all of the wages or fringe benefits which the employee is owed.

The bill (Eng. Com. Sub. for H. B. 2646), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2775**, Requiring each high school student to complete a full credit course of study in personal finance.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 2961**, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 3049**, Improving dissemination of boiled water advisories to affected communities.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

On page three, section nine-a, line forty-nine, by striking out the words “promptly report” and inserting in lieu thereof the words “immediately, but in no instance later than six hours, report”.

The bill (Eng. Com. Sub. for H. B. 3049), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4001**, Creating West Virginia Impact Fund.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4009**, Relating to the process for involuntary hospitalization.

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 1. WORDS AND PHRASES DEFINED.**

### **§27-1-11. Addiction.**

(a) As used in this chapter, “addiction” or substance use disorder means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring within 30 days prior to the filing of the petition:

(1) Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home, including, but not limited to, repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; or neglect of children or household;

(2) Recurrent use in situations in which it is physically hazardous, including, but not limited to, driving while intoxicated or operating a machine when impaired by substance use;

(3) Recurrent substance-related legal problems; or

(4) Continued use despite knowledge or having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

(b) As used in this section, “substance” ~~shall mean~~ means alcohol, controlled substances as defined in sections §60A-2-204, §60A-2-206, §60A-2-208, and §60A-2-210 of this code, or anything consumed for its psychoactive effect whether or not designed for human consumption.

## **ARTICLE 5. INVOLUNTARY HOSITALIZATION.**

### **§27-5-1. Appointment of mental hygiene commissioner; duties of mental hygiene commissioner; duties of prosecuting attorney; duties of sheriff; duties of Supreme Court of Appeals; use of certified municipal law-enforcement officers.**

(a) *Appointment of mental hygiene commissioners.* — The chief judge in each judicial circuit of this state shall appoint a competent attorney and may, if necessary, appoint additional attorneys to serve as mental hygiene commissioners to preside over involuntary hospitalization hearings. Mental hygiene commissioners shall be persons of good moral character and of standing in their profession and they shall, before assuming the duties of ~~such a~~ a commissioner, take the oath required of other special commissioners as provided in §6-1-1 *et seq.* of this code.

Prior to presiding over an involuntary hospitalization hearing, each ~~All persons~~ newly appointed person to serve as a mental hygiene commissioners and all magistrates shall attend and complete an orientation course that, within one year of their appointment, consisting consists of training provided annually by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. In addition, existing mental hygiene commissioners and ~~any~~ all magistrates ~~designated by the chief judge of a judicial circuit~~ trained to hold probable cause and emergency detention hearings involving involuntary hospitalization shall attend and complete a course provided by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. Persons attending ~~such~~ the courses outside the

county of their residence shall be reimbursed out of the budget of the Supreme Court—General Judicial for reasonable expenses incurred. The Supreme Court of Appeals shall establish curricula and rules for ~~such~~ the courses, including rules providing for the reimbursement of reasonable expenses as authorized ~~herein~~ in this section. The Secretary of the Department of Health and Human Resources shall consult with the Supreme Court of Appeals regarding the development of the orientation program.

(b) *Duties of mental hygiene commissioners.* —

(1) Mental hygiene commissioners may sign and issue summonses for the attendance, at any hearing held pursuant to §27-5-4 of this code, of the individual sought to be committed; may sign and issue subpoenas for witnesses, including subpoenas duces tecum; may place any witness under oath; may elicit testimony from applicants, respondents, and witnesses regarding factual issues raised in the petition; and may make findings of fact on evidence and may make conclusions of law, but ~~such~~ the findings and conclusions ~~shall not be~~ are not binding on the circuit court. All mental hygiene commissioners shall be reasonably compensated at a uniform rate determined by the Supreme Court of Appeals. Mental hygiene commissioners shall submit all requests for compensation to the administrative director of the courts for payment. Mental hygiene commissioners shall discharge their duties and hold their offices at the pleasure of the chief judge of the judicial circuit in which he or she is appointed and may be removed at any time by ~~such~~ the chief judge. ~~It shall be the duty of~~ a A mental hygiene commissioner ~~to~~ shall conduct orderly inquiries into the mental health of the individual sought to be committed concerning the advisability of committing the individual to a mental health facility. The mental hygiene commissioner shall safeguard, at all times, the rights and interests of the individual as well as the interests of the state. The mental hygiene commissioner shall make a written report of his or her findings to the circuit court. In any proceedings before any court of record as set forth in this article, the court of record shall appoint an interpreter for any individual who is deaf or cannot speak, or

who speaks a foreign language, and who may be subject to involuntary commitment to a mental health facility.

(2) A mental hygiene commissioner appointed by the circuit court of one county or multiple county circuits may serve in ~~such~~ that capacity in a jurisdiction other than that of his or her original appointment if ~~such be~~ it is agreed upon by the terms of a cooperative agreement between the circuit courts and county commissions of two or more counties entered into to provide prompt resolution of mental hygiene matters during ~~noncourt~~ when the courthouse is closed or on nonjudicial days.

(c) *Duties of prosecuting attorney.* — ~~It shall be the duty of the~~ The prosecuting attorney or one of his or her assistants ~~to~~ shall represent the applicants in all final commitment proceedings filed pursuant to the provisions of this article. The prosecuting attorney may appear in any proceeding held pursuant to the provisions of this article if he or she ~~deems~~ determines it to be in the public interest.

(d) *Duties of sheriff.* — Upon written order of the circuit court, mental hygiene commissioner, or magistrate in the county where the individual formally accused of being mentally ill or ~~addicted~~ having a substance use disorder is a resident or is found, the sheriff of that county shall take ~~said~~ the individual into custody and transport him or her to and from the place of hearing and the mental health facility. The sheriff shall also maintain custody and control of the accused individual during the period of time in which the individual is waiting for the involuntary commitment hearing to be convened and while ~~such~~ the hearing is being conducted: *Provided*, That an individual who is a resident of a state other than West Virginia shall, upon a finding of probable cause, be transferred to his or her state of residence for treatment pursuant to §27-5-4(p) of this code: *Provided, however*, That where an individual is a resident of West Virginia but not a resident of the county in which he or she is found and there is a finding of probable cause, the county in which the hearing is held may seek reimbursement from the county of residence for reasonable costs incurred by the county attendant to the mental hygiene proceeding. Notwithstanding any



provision of this code to the contrary, sheriffs may enter into cooperative agreements with sheriffs of one or more other counties, with the concurrence of their respective circuit courts and county commissions, ~~whereby~~ by which transportation and security responsibilities for hearings held pursuant to the provisions of this article during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days may be shared in order to facilitate prompt hearings and to effectuate transportation of persons found in need of treatment. In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff shall contact the state hospital in advance of the transportation to determine if the state hospital has available suitable bed capacity to place the individual.

(e) *Duty of sheriff upon presentment to mental health care facility.* — When a person is brought to a mental health care facility for purposes of evaluation for commitment under this article, if he or she is violent or combative, the sheriff or his or her designee shall maintain custody of the person in the facility until the evaluation is completed, or the county commission shall reimburse the mental health care facility at a reasonable rate for security services provided by the mental health care facility for the period of time the person is at the hospital prior to the determination of mental competence or incompetence.

(f) *Duties of Supreme Court of Appeals.* — The Supreme Court of Appeals shall provide uniform petition, procedure, and order forms which shall be used in all involuntary hospitalization proceedings brought in this state.

(g) *Duties of the Department of Health and Human Resources.* — The secretary shall develop an orientation program as provided in subsection (a) of this section. The orientation program shall include, but not be limited to, instruction regarding the nature and treatment of mental illness and substance use disorder; the goal and purpose of commitment; community-based treatment options; and less restrictive alternatives to inpatient commitment.

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.**

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined ~~is addicted,~~ has a substance use disorder as defined in ~~§ 27-1-11 of this code,~~ by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal, or is mentally ill and, because of his or her ~~addiction~~ substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, or psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided, That a diagnosis of dementia alone may not serve as a basis for involuntary commitment.*

Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services for the individual's mental illness or ~~addiction~~ substance use disorder.

(b) The person making the application shall make the application under oath.

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides or of the county in which he or she may be found. ~~When no circuit court judge or mental hygiene commissioner is available for immediate presentation of the application, the application may be made to a~~

~~magistrate designated by the chief judge of the judicial circuit to accept applications and hold probable cause hearings.~~ A designated magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application ~~as may be~~ required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or ~~designated~~ magistrate may enter an order for the individual named in the application to be detained and taken into custody for the purpose of holding a probable cause hearing as provided in §27-5-2(g) of this code for the purpose of an examination of the individual by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician's assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician's assistant, or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or ~~addiction~~ substance use disorder sufficient to make the determinations ~~as are~~ required by the provisions of this section. The examination is to be provided or arranged by a community mental

health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the hearing be held ~~forthwith~~ immediately and is to provide for the appointment of counsel for the individual: *Provided, however,* That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than ~~forthwith~~ immediately if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further,* That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or in the event of a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, "psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has, within the preceding 72 hours, performed the examination required by the provisions of this subsection, the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding the provisions of this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has no substance use disorder, or is determined to be mentally ill or ~~addicted~~ has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately

released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately provide the mental hygiene commissioner, circuit court, or ~~designated~~ magistrate before whom the matter is pending the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing is to be held before a magistrate, ~~designated by the chief judge of the judicial circuit~~, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours.

The individual must be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and ~~to~~ examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not there is probable cause to believe that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself or herself or to others.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons hospitalized for ~~addiction~~ substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article. The alternative or modified procedures shall fully and effectively

guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or others and because of mental illness or ~~addiction~~ a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or ~~addiction~~ substance use disorder remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to the provisions of §27-5-3 of this code may be entered. ~~In the event a person released pursuant to a voluntary treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance coverage, including, but not limited to, private~~

~~insurance or Medicaid, the Secretary of the Department of Health and Human Resources may transfer funds for the purpose of reimbursing community providers for services provided on an outpatient basis for individuals for whom payment for treatment is the responsibility of the department. *Provided*, That the department may not authorize payment of outpatient services for an individual subject to a voluntary treatment agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of involuntary hospitalization. Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment, or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.~~

Notwithstanding anything in this article to the contrary, the commitment of any individual as provided in this article shall be in the least restrictive setting and in an outpatient community-based

treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section, who is acting in a manner consistent with the standard of care, establishes that the commitment or treatment of that individual requires an inpatient hospital placement.

(i) If the certifying ~~physician or psychologist~~ professional determines that ~~a person~~ an individual requires involuntary hospitalization for a ~~an addiction to a substance~~ substance use disorder which, due to the degree of ~~addiction~~ the disorder, creates a reasonable likelihood that withdrawal or detoxification ~~from the substance of addiction~~ will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

**§27-5-2a. Process for involuntary hospitalization.**

(a) As used in this section:

(1) “Addiction” has the same meaning as the term is defined in §27-1-11 of this code.



(2) “Authorized staff physician” means a physician, authorized pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, who is a bona fide member of the hospital’s medical staff.

(3) “Hospital” means a facility licensed pursuant to the provisions of §16-5b-1 *et seq.* of this code, and any acute care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals under the supervision of physicians.

(4) “Psychiatric emergency” means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others.

(b)(1) If a mental hygiene commissioner, magistrate, and circuit judge are unavailable or unable to be immediately contacted, an authorized staff physician may order the involuntary hospitalization of an individual who is present at, or presented at, a hospital emergency department in need of treatment, if the authorized staff physician believes, following an examination of the individual, that the individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself or to others if allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to his or her decision that the patient presents a harm to himself, herself or others and needs to be held involuntarily for up to 72 hours. The West Virginia Supreme Court of Appeals is requested to generate a form for the statement to be signed by the authorized staff physician or other person authorized by the hospital and provided to the individual.

(2) Immediately upon admission, or as soon as practicable thereafter, but in no event later than 24 hours after an involuntary hospitalization pursuant to this section, the authorized staff physician or designated employee shall file a mental hygiene petition in which the authorized staff physician certifies that the individual for whom the involuntary hospitalization is sought is

addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to other individuals if allowed to remain at liberty. The authorized staff physician shall also certify the same in the individual's health records. Upon receipt of this filing, the mental hygiene commissioner, a magistrate, or circuit judge shall conduct a hearing pursuant to §27-5-2 of this code.

(3) An individual who is involuntarily hospitalized pursuant to this section shall be released from the hospital within 72 hours, unless further detained under the applicable provisions of this article.

(c) During a period of involuntary hospitalization authorized by this section, upon consent of the individual, or in the event of a medical or psychiatric emergency, the individual may receive treatment. The hospital or authorized staff physician shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications.

(d) Each hospital or authorized staff physician which provides services under this section shall be paid for the services at the same rate the hospital or authorized staff physician negotiates with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may file a claim for payment with the West Virginia Legislative Claims Commission in accordance with §14-2-1 *et seq.* of this code.

(e) Authorized staff physicians and hospitals and their employees carrying out duties or rendering professional opinions as provided in this section shall be free from liability for their actions, if the actions are performed in good faith and within the scope of their professional duties and in a manner consistent with the standard of care.

(f) The West Virginia Supreme Court of Appeals is requested, by no later than July 1, 2020, to provide each hospital with a list of names and contact information of the mental hygiene

commissioners, magistrates, and circuit judges to address mental hygiene petitions in the county where the hospital is located. The West Virginia Supreme Court of Appeals is requested to update this list regularly and the list shall reflect on-call information. If a mental hygiene commissioner, county magistrate, or circuit judge does not respond to the request within 24 hours, a report shall be filed to the West Virginia Supreme Court of Appeals.

(g) An action taken against an individual pursuant to this section may not be construed to be an adjudication of the individual, nor shall any action taken pursuant to this section be construed to satisfy the requirements of §61-7-7(a)(4) of this code.

### **§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.**

(a) *Admission to a mental health facility for examination.* — Any individual may be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code ~~and~~ upon a finding by a licensed physician that the individual is medically stable, and upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 et seq. of this code, or an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 et seq. of this code, or a physician's assistant practicing in compliance with §30-3E-1 et seq. of this code with advanced duties in psychiatric medicine that he or she has examined the individual and is of the opinion that the individual is mentally ill or ~~addicted~~ has a substance use disorder and, because of ~~such~~ the mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or to others if not immediately restrained: *Provided*, That the opinions offered by an independent clinical social worker, ~~or~~ an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine must be within ~~their~~ his or her particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification.* — The certification required in §27-5-3(a) of this code ~~shall be~~ is valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* — A certification under this section must include findings and conclusions of the mental examination, the date, time, and place of the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based.

(e) *Notice requirements.* — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) ~~Five-day~~ Three-day *time limitation for examination and certification at mental health facility or state hospital.* — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than ~~five~~ three days, excluding Sundays and holidays, unless, within the period, the individual is

examined by a staff physician and the physician certifies that in his or her opinion the patient is mentally ill or ~~addicted~~ has a substance use disorder and is likely to injure himself, herself, or others if allowed to be at liberty. In the event the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to himself, herself or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the individual as appropriate as soon as practicable.

(g) ~~Fifteen-day~~ Ten-day time limitation for institution of final commitment proceedings. — If, in the opinion of the examining physician, the patient is mentally ill or ~~addicted~~ has a substance use disorder and because of the mental illness or ~~addiction~~ substance use disorder is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within ~~15~~ 10 days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within ~~such 15-day~~ the 10-day period, the ~~patient~~ individual shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~Thirty-day~~ Twenty-day time limitation for conclusion of all proceedings. — If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within ~~30~~ 20 days from the date of institution of the proceedings, the ~~patient~~ individual shall be immediately released.

#### **§27-5-4. Institution of final commitment proceedings; hearing requirements; release.**

(a) *Involuntary commitment.* — Except as provided in §27-5-3 of this code, no individual may be involuntarily committed to a

mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence.

(b) *How final commitment proceedings are commenced.* — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found, or the county of a mental health facility if he or she is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or may be found.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed.* —

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or ~~addiction~~ substance use disorder. The applicant shall state in detail the recent overt acts upon which the belief is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents, filed with a circuit court, mental hygiene commissioner, or ~~designated~~ magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the

individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner, or ~~designated~~ magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. § 922, and the central state mental health registry, in accordance with §61-7A-1 *et seq.* of this code. Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications may not be accepted for individuals who only have epilepsy, ~~a mental deficiency, senility, dementia,~~ or an intellectual or developmental disability.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate.* —

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or ~~addicted~~ has a substance use disorder and that because of the mental illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and, therefore, should be hospitalized. The certificate shall state in detail the recent overt acts on which the conclusion is based.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application, and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary

hospitalization, ~~forthwith~~ immediately fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

(1) The nature of the charges against the individual;

(2) The facts underlying and supporting the application of involuntary commitment;

(3) The right to have counsel appointed;

(4) The right to consult with and be represented by counsel at every stage of the proceedings; and

(5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin or to the circuit court in the county of the individual's residence may be by personal service



of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

(g) *Examination of individual by court-appointed physician, ~~or~~ psychologist, advanced nurse practitioner, or physician's assistant; custody for examination; dismissal of proceedings. —*

(1) Except as provided in subdivision (3) of this subsection, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, ~~or~~ psychologist, an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or ~~addiction~~ substance use disorder of the individual and the likelihood of causing serious harm to self or others.

(2) If the designated physician, ~~or~~ psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, ~~or~~ psychologist, nurse practitioner, or physician's assistant. All ~~such~~ orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to §27-5-3 of this code.

(3) If the reports of the appointed physician, ~~or~~ psychologist, nurse practitioner, or physician's assistant do not confirm that the individual is mentally ill or ~~addicted~~ has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel required.* —

(1) The individual shall be present at the final commitment hearing, and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) In the event the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of the name, address, and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) *Duties of counsel representing individual; payment of counsel representing indigent.* —

(1) Counsel representing an individual shall conduct a timely interview, make investigation, and secure appropriate witnesses, be present at the hearing, and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber, including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to ~~physicians or psychologists~~ health care professionals appointed under subsection (g) of this section by the individual may be admitted into evidence by ~~physician's or psychologist's~~ the health care professional's testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A ~~psychologist or physician~~ health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where an indigent person intends to pursue further proceedings, the circuit court shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following:

(A) Whether the individual is mentally ill or ~~addicted~~ has a substance use disorder;

(B) Whether, because of illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual; Provided, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for, the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(1) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order. —*

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for ~~an indeterminate period or for a temporary observatory period not exceeding six months.~~ a period not to exceed 90 days except as otherwise provided in this subdivision. During that period and solely for individuals who are committed under §27-6A-1 et seq. of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer, acting in good faith and in a manner consistent with the standard of care,

determines that: (i) The individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after the notice unless the court of record stays the discharge of the individual. In the event the court stays the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the individual shall be thereafter discharged unless the court finds by clear and convincing evidence that the individual is a significant and present danger to self or others, and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment at the mental health facility or state hospital at any time for a period longer than 90 days, then the individual shall remain at the mental health facility or state hospital until the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment. The chief medical officer shall provide notice to the court and the prosecuting attorney that the individual requires commitment for a period in excess of 90 days and, in the notice, the chief medical officer shall describe the reasons for ongoing commitment. In its discretion, the court or prosecuting attorney may request any information from the chief medical officer that the court or prosecuting attorney considers appropriate to justify the need for the individual's ongoing commitment.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment, and the mental illness or serious emotional disturbance is in remission;

(B) Whether the individual's condition resulting from mental illness or substance use disorder is likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others unless treatment is continued;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual is not a danger to self or others; and

(F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

~~(2)~~ (3) The individual may not be detained in a mental health facility or state hospital for a period in excess of 10 days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

~~(3) If the order pursuant to a final commitment hearing is for a temporary observation period, the circuit court or mental hygiene commissioner may, at any time prior to the expiration of such period on the basis of a report by the chief medical officer of the mental health facility in which the patient is confined, hold another hearing pursuant to the terms of this section and in the same manner as the hearing was held as if it were an original petition for involuntary hospitalization to determine whether the original order for a temporary observation period should be modified or changed to an order of indeterminate hospitalization of the patient. At the conclusion of the hearing, the circuit court shall order indeterminate hospitalization of the patient or dismissal of the proceedings.~~

~~(4) An order for an indeterminate period expires of its own terms at the expiration of two years from the date of the last order of commitment unless prior to the expiration, the Department of Health and Human Resources, upon findings based on an examination of the patient by a physician or a psychologist, extends the order for indeterminate hospitalization. If the patient or his or her counsel requests a hearing, a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.~~

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is determined by the court to remain an imminent danger to self or others.

(5) In the event the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

~~(m) *Dismissal of proceedings.* — In the event the individual is discharged as provided in subsection (l) of this section, If the circuit court or mental hygiene commissioner shall finds that the individual is not mentally ill or addicted, the proceedings shall be dismissed. If the circuit court or mental hygiene commissioner finds that the individual is mentally ill or addicted but is not, because of the illness or addiction, likely to cause serious harm to self or others if allowed to remain at liberty, the proceedings shall be dismissed. dismiss the proceedings.~~

(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.

(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order.* —

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility or state hospital, a transcript of the evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall ~~forthwith~~ immediately be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth ~~above~~ in subdivision one of this subsection, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted ~~forthwith~~ immediately to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person.* — In lieu of ordering the ~~patient~~ individual to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible person a bond in an amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state.* — If the individual is found to be mentally ill or ~~addicted~~ addicted to have a substance use disorder



by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be ~~forthwith~~ immediately given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual, except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources.* —

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall ~~forthwith~~ immediately make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility or state hospital to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall ~~forthwith~~ immediately, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission.* —

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of record for any physician, psychologist, and witness called by the

indigent individual. The copying and mailing costs associated with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

**§27-5-10. Transportation for the mentally ill or substance abuser persons with substance use disorder.**

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, ~~it shall be the duty of the sheriff to~~ shall provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that ~~such~~ those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments ~~are hereby authorized to may~~ enter into written agreements ~~whereby~~ by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer"

means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual.

(e) ~~(d)~~ Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

## **ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.**

### **§27-6A-12. Study of adult criminal competency and responsibility issues; requiring and requesting report and proposed legislation; submission to legislature.**

(a) The Secretary of the Department of Health and Human Resources shall, in collaboration with designees of the Supreme Court of Appeals, the Prosecuting Attorney's Institute, the Public Defender Services, Disability Rights of West Virginia, and designees of the Board of Medicine, Board of Osteopathy, and the Board Examiners of Psychologists with experience in issues of competence and criminal responsibility, undertake an evaluation of the provisions of this article in the context of current constitutional requirements related to competency and responsibility issues, best medical practices, and pharmacological developments and draft proposed legislation to update the provisions of this article.

(b) The legislation required by the provisions of subsection (a) of this section shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4009) was laid over one day, retaining its place on the calendar, with the Judiciary committee amendment pending.

**Eng. Com. Sub. for House Bill 4019**, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4020**, Removing authority of municipalities to require occupational licensure if licensure for the occupation is required by the state.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section three-~~tt~~, line one, by striking out the word “chapter” and inserting in lieu thereof the word “code”;

And,

On page one, section twenty, line one, by striking out the word “chapter” and inserting in lieu thereof the word “code”.

The bill (Eng. Com. Sub. for H. B. 4020), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4061**, Health Benefit Plan Network Access and Adequacy Act.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4069**, West Virginia Student Religious Liberties Act.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4088**, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4094**, Continuing the Foster Care Ombudsman.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Select Committee on Children and Families, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 9. FOSTER CARE OMBUDSMAN PROGRAM.**

**§49-9-101. The Foster Care Ombudsman.**

(a) There is continued within the Office of the Inspector General the position of the West Virginia Foster Care Ombudsman.

The Office of the Inspector General shall employ a Foster Care Ombudsman to affect the purposes of this article.

(b) In addition to the duties provided in §9-5-27 of this code, the duties of the Foster Care Ombudsman include, but are not limited to, the following:

(1) Establishing a statewide procedure to receive, investigate, and resolve complaints filed on behalf of a foster child, foster parent, or kinship parent, or, on the Foster Care Ombudsman's own initiative, on behalf of a foster child, relating to action, inaction, or decisions of the state agency, child-placing agency, or residential care facility which may adversely affect the foster child, foster parent, or kinship parent;

(2) Review periodically and make appropriate recommendations for the policies and procedures established by any state agency providing services to foster children, foster parents, kinship parents, including, but not limited to, the system of providing foster care and treatment;

(3) Pursuant to an investigation, provide assistance to a foster child, foster parent, or kinship parent who the Foster Care Ombudsman determines is in need of assistance, including, but not limited to, collaborating with an agency, provider, or others on behalf of the best interests of the foster child;

(4) Recommend action when appropriate, including, but not limited to, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil, and special rights of foster children who reside in this state;

(5) Conduct programs of public education when necessary and appropriate;

(6) Have input into the creation of, and thereafter make recommendations consistent with, the foster children, foster parents, and kinship parents bill of rights;

(7) Take appropriate steps to advise the public of the services of the Foster Care Ombudsman, the purpose of the ombudsman, and procedures to contact the office; and

(8) Make inquiries and obtain assistance and information from other state governmental agencies or persons as the Foster Care Ombudsman requires for the discharge of his or her duties.

**§49-9-102. Investigation of complaints.**

(a) Upon receipt of a complaint filed on behalf of a foster child, foster parent, or kinship parent, on his or her own initiative or by court order within the scope of the Foster Care Ombudsman Program, the Foster Care Ombudsman shall investigate, except as provided in §49-9-102(c), any act, practice, policy, or procedure of any state agency, child-placing agency, or residential care facility which affects the health, safety, welfare, or rights of a foster child, a foster parent, or a kinship parent.

(b) Investigative activities of the Foster Care Ombudsman include, but are not limited to: information gathering, mediation, negotiation, informing parties of the status of the investigation, notification to any aggrieved party of alternative processes, reporting of suspected violations to a licensing or certifying agency, and the reporting of suspected criminal violations to the appropriate authorities.

(c) The Foster Care Ombudsman need not investigate any complaint upon determining that:

(1) The complaint is trivial, frivolous, vexatious, or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation;

(4) The matter complained of is not within the investigatory authority of the Foster Care Ombudsman; or

(5) A real or apparent conflict of interest exists and no other person within the office is available to investigate the complaint in an impartial manner.

(d) The Office of the Inspector General and other appropriate state governmental agencies may establish and implement cooperative agreements for receiving, processing, responding to, and resolving complaints involving state governmental agencies under the provisions of this section.

(e) Beginning with the third quarter of 2020, the Foster Care Ombudsman shall submit a written report to the Governor containing:

(1) The number of complaints;

(2) The types of complaints;

(3) The location of the complaints;

(4) How the complaints are resolved; and

(5) Any other information the Foster Care Ombudsman feels is appropriate.

(f) Beginning in December 2020, the Foster Care Ombudsman shall summarize the quarterly reports and present that information to the Legislative Oversight Commission on Health and Human Resources Accountability.

**§49-9-103. Access to foster care children.**

(a) The Foster Care Ombudsman shall, with proper identification, have access to a foster family home, a state agency, a child-placing agency, or a residential care facility for the purposes of investigations of a complaint. The Foster Care Ombudsman may enter a foster family home, a state agency, a



child-placing agency, or a residential care facility at a time appropriate to the complaint. The visit may be announced in advance or be made unannounced as appropriate to the complaint under investigation. Upon entry, the Foster Care Ombudsman shall promptly and personally advise the person in charge of his or her presence. If entry is refused by the person in charge, the Foster Care Ombudsman may apply to the magistrate court of the county in which a foster family home, a state agency, a child-placing agency, or a residential care facility is located for a warrant authorizing entry, and the court shall issue an appropriate warrant if it finds good cause therefor.

(b) For activities other than those specifically related to the investigation of a complaint, the Foster Care Ombudsman, upon proper identification, shall have access to a foster family home, a state agency, a child-placing agency, or a residential care facility between the hours of 8:00 a.m. and 8:00 p.m. in order to:

(1) Provide information on the Foster Care Ombudsman Program to a foster child, foster parents, or kinship parents;

(2) Inform a foster child, a foster parent, or a kinship parent of his or her rights and entitlements, and his or her corresponding obligations, under applicable federal and state laws; and

(3) Direct the foster child, the foster parents, or the kinship parents to appropriate legal resources;

(c) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall be deemed to include the right to private communication with the foster child, the foster parents, or the kinship parents.

(d) A Foster Care Ombudsman who has access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall not enter the living area of a foster child, foster parent, or kinship parent without identifying himself or herself to the foster child, foster parent, or kinship parent. After identifying himself or herself, an ombudsman

shall be permitted to enter the living area of a foster child, foster parent, or kinship parent unless that foster child, foster parent, or kinship parent communicates on that particular occasion the foster child, foster parents', or kinship parents' desire to prevent the ombudsman from entering. A foster child, foster parent, or kinship parent has the right to terminate, at any time, any visit by the Foster Care Ombudsman.

(e) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility pursuant to this section includes the right to tour the facility unescorted.

**§49-9-104. Access to records.**

(a) The Foster Care Ombudsman is allowed access to any foster child's, foster parents' or kinship parents' records, including medical records reasonably necessary to any investigation, without fee.

(b) The Foster Care Ombudsman is allowed access to all records of any foster family home, state agency, child-placing agency, or residential care facility that is reasonably necessary for the investigation of a complaint, including, but not limited to, incident reports; dietary records; policies and procedures that a foster family home, a state agency, a child-placing agency, or a residential care facility are required to maintain under federal or state law; admission agreements; staffing schedules; or any document depicting the actual staffing pattern.

**§49-9-105. Subpoena powers.**

(a) The Foster Care Ombudsman may, in the course of any investigation:

(1) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena to compel at a specific time and place, by subpoena, the appearance, before a person authorized to administer oaths, the sworn testimony of any person whom the Foster Care Ombudsman

reasonably believes may be able to give information relating to a matter under investigation; or

(2) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena duces tecum to compel any person to produce at a specific time and place, before a person authorized to administer oaths, any documents, books, records, papers, objects, or other evidence which the Foster Care Ombudsman reasonably believes may relate to a matter under investigation.

(b) A subpoena or subpoena duces tecum applied for by the Foster Care Ombudsman may not be issued until a circuit court judge in term or vacation thereof has personally reviewed the application and accompanying affidavits and approved, by a signed order entered by the judge, the issuance of the subpoena or subpoena duces tecum. Subpoenas or subpoenas duces tecum applied for pursuant to this section may be issued on an ex parte basis following review and approval of the application by the judge in term or vacation thereof.

(c) The Attorney General shall, upon request, provide legal counsel and services to the Foster Care Ombudsman in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals.

**§49-9-106. Cooperation among government departments or agencies.**

(a) The Foster Care Ombudsman shall have access to the records of any state government agency reasonably necessary to any investigation. The Foster Care Ombudsman shall be notified of and be allowed to observe any survey conducted by a government agency affecting the health, safety, welfare, or rights of the foster child, the foster parents, or the kinship parents.

(b) The Foster Care Ombudsman shall develop procedures to refer any complaint to any appropriate state government department, agency, or office.

(c) When abuse, neglect, or exploitation of a foster child is suspected, the Foster Care Ombudsman shall make a referral to the Bureau for Children and Families, Office of Health Facility Licensure and Certification, or both.

(d) Any state government department, agency, or office that responds to a complaint referred to it by the Foster Care Ombudsman Program shall make available to the Foster Care Ombudsman copies of inspection reports and plans of correction, and notices of any citations and sanctions levied against the foster family home, the child-placing agency, or the residential care facility identified in the complaint.

**§49-9-107. Confidentiality of investigations.**

(a) Information relating to any investigation of a complaint that contains the identity of the complainant or foster child, foster parent, or kinship parent shall remain confidential except:

(1) Where disclosure is authorized in writing by the complainant foster child, foster parent, kinship parent, or the guardian.

(2) Where disclosure is necessary to the Bureau for Children and Families in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect, or emergency circumstances; or

(3) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both.

(b) Notwithstanding any other section within this article, all information, records, and reports received by or developed by the Foster Care Ombudsman Program which relate to a foster child, foster parent, or kinship parent, including written material identifying a foster child, foster parent, or kinship parent, are confidential pursuant to §49-5-101 *et seq.* of this code, and are not subject to the provisions of §29B-1-1 *et seq.* of this code, and may

not be disclosed or released by the Foster Care Ombudsman Program, except under the circumstances enumerated in this section.

(c) Nothing in this section prohibits the preparation and submission by the Foster Care Ombudsman of statistical data and reports, as required to implement the provisions of this article or any applicable federal law, exclusive of any material that identifies any foster child, foster parent, kinship parent, or complainant.

(d) The Inspector General shall have access to the records and files of the Foster Care Ombudsman Program to verify its effectiveness and quality where the identity of any complainant or foster child, foster parent, or kinship parent is not disclosed.

#### **§49-9-108. Limitations on liability.**

(a) The Foster Care Ombudsman participating in an investigation carried out pursuant to this article who is performing his or her duties is immune from civil liability that otherwise might result by reason of his or her participation in the investigation, as long as such participation is not violative of any applicable law, rule, or regulation, and done within the scope of his or her employment and in good faith.

(b) If an act or omission by the Foster Care Ombudsman or an act in good faith pursuant to a specific foster child, foster parent, or kinship parent complaint causes a foster child's, foster parents', or kinship parents' rights to be violated, no foster family home, state agency, child-placing agency, or residential care facility, its owners, administrators, officers, director, agents, consultants, employees, or any member of management may be held civilly liable as a result of the act or omission.

#### **§49-9-109. Willful interference; retaliation; penalties.**

(a) An individual who willfully interferes with or impedes the Foster Care Ombudsman in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(b) An individual who institutes or commits a discriminatory, disciplinary, retaliatory, or reprisal action against a foster child, foster parent, or kinship parent for having filed a complaint with or provided information in good faith to the Foster Care Ombudsman in carrying out the duties pursuant to this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(c) An individual violating the provisions of subsection (a) or (b) of this section is, for the second or any subsequent offense under either of these subsections, guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250. Each day of a continuing violation after conviction shall be considered a separate offense.

(d) Nothing in this section infringes upon the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

**§49-9-110. Funding for Foster Care Ombudsman Program.**

The Foster Care Ombudsman Program shall receive such funds appropriated by the Legislature for the operation of the program.

The bill (Eng. Com. Sub. for H. B. 4094), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4102**, Relating to opioid antagonists.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4108**, Relating generally to certificates of need for health care services.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4159**, Relating to the manufacture and sale of hard cider.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4165**, West Virginia Remembers Program.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4178**, Requiring calls which are recorded be maintained for a period of five years.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.**

##### **§24-6-13. Confidentiality of certain calls to county answering points and records; retention of records.**

(a) Except as provided by the provisions of this section, calls for emergency service to a county answering point are not confidential. All calls for emergency service reporting alleged criminal conduct which are recorded electronically, in writing or in any other form are to be kept confidential by the county answering

point receiving the call and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena or through the course of discovery in a criminal action requiring the release of the information: *Provided*, That nothing contained in this section may be construed as preventing the county answering point from releasing information to a responding agency as may be necessary for that agency's response on a call or the completion of necessary reports relating to that call.

(b) Upon proper request and payment of a reasonable fee set by the center director to cover the cost of production, a person or entity may obtain, without court order or a valid subpoena, a transcription of a call for emergency service reporting alleged criminal conduct. The answering point shall exclude from the transcription any information relating to the identity of the caller including, but not limited to, the caller's name, address, telephone number or his or her location in relation to the alleged offense or the alleged perpetrator. If the transcript of a call is such that it cannot be successfully redacted so as to protect the identity of the caller, the answering point may decline to provide the transcript. In that case, the person requesting the transcription may apply to a court of competent jurisdiction for a court order releasing the transcript.

(c) All calls for emergency service which are recorded electronically, in writing or in any other form are to be maintained for a period of at least ~~ninety days~~ two years or longer if required by an order entered by a court of competent jurisdiction or a valid subpoena.

(d) A county answering point may release information to bonafide law-enforcement agencies, the prosecuting attorney of a county or a United States attorney pursuant to a lawful criminal investigation. Nothing in this article may be construed as prohibiting a freedom of information request under §29B-1-1 *et seq.* of this code for information relating to the operation of the center or to calls for emergency service which do not involve reporting of alleged criminal conduct.